

To: Greenwalt, Sarah[greenwalt.sarah@epa.gov]
Cc: Fotouhi, David[fotouhi.david@epa.gov]; Minoli, Kevin[Minoli.Kevin@epa.gov]; Fugh, Justina[Fugh.Justina@epa.gov]; Wendelowski, Karyn[wendelowski.karyn@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]
From: Neugeboren, Steven
Sent: Tue 5/9/2017 11:05:37 PM
Subject: Fwd: Oklahoma's status in S.Ct. CWR litigation

(b) (5) (DPP)

A large rectangular area of the document is redacted with a solid grey fill. The redaction covers approximately six lines of text, starting from the line containing '(b) (5) (DPP)' and extending down to the line containing 'Sent from my iPhone'.

Sent from my iPhone
Steven Neugeboren
Associate General Counsel
United States Environmental Protection Agency
1200 Pennsylvania Ave. NW
Washington DC. 20460
202-564-5488

Begin forwarded message:

From: "Wendelowski, Karyn" <wendelowski.karyn@epa.gov>
Date: May 9, 2017 at 6:32:45 PM EDT
To: "Neugeboren, Steven" <Neugeboren.Steven@epa.gov>
Subject: Fwd: Oklahoma's status in S.Ct. CWR litigation

Karyn Wendelowski
Attorney Advisor
Office of General Counsel
(202) 564-5493

Begin forwarded message:

From: "Doyle, Andrew (ENRD)" <Andrew.Doyle@usdoj.gov>
Date: May 9, 2017 at 3:05:44 PM EDT
To: "Wendelowski, Karyn" <wendelowski.karyn@epa.gov>
Subject: RE: Oklahoma's status in S.Ct. CWR litigation

It is a party, rather.

From: Wendelowski, Karyn [<mailto:wendelowski.karyn@epa.gov>]
Sent: Tuesday, May 09, 2017 3:05 PM
To: Doyle, Andrew (ENRD) <ADoyle@ENRD.USDOJ.GOV>
Subject: Re: Oklahoma's status in S.Ct. CWR litigation

Thanks for the quick response.

Karyn Wendelowski

Attorney Advisor

Office of General Counsel

(202) 564-5493

On May 9, 2017, at 3:01 PM, Doyle, Andrew (ENRD) <Andrew.Doyle@usdoj.gov> wrote:

They are a party, specifically a “respondent . . . in support of petitioner” to use the words of the brief it (together with other states) recently filed.

From: Wendelowski, Karyn [<mailto:wendelowski.karyn@epa.gov>]
Sent: Tuesday, May 09, 2017 2:51 PM
To: Doyle, Andrew (ENRD) <ADoyle@ENRD.USDOJ.GOV>
Subject: Oklahoma's status in S.Ct. CWR litigation

(b) (5) (DPP)



Thanks!

Karyn

Karyn Wendelowski

Attorney-Advisor

Water Law Office

Office of General Counsel

(202)564-5493

To: Minoli, Kevin[Minoli.Kevin@epa.gov]; Fugh, Justina[Fugh.Justina@epa.gov]; Greenwalt, Sarah[greenwalt.sarah@epa.gov]
Cc: Schwab, Justin[schwab.justin@epa.gov]
From: Fotouhi, David
Sent: Tue 5/9/2017 5:00:30 PM
Subject: RE: Recusal
BNA: Pruitt Has Free Hand on EPA Rules Despite Sitting Out Lawsuits, 5/9/17

(b) (5) (DPP)

One area where Pruitt's recusal is unclear is in challenges to the Clean Water Rule, which delineates which rivers and streams are subject to Clean Water Act protections.

While Pruitt vowed not to participate in lawsuits challenging the rule in two federal appellate courts, he may still participate in questions currently before the U.S. Supreme Court. Pruitt said Oklahoma was not a party to that challenge, but did file a friend of the court brief on which court is the proper venue to hear lawsuits over the jurisdiction rule.

Pruitt said he would seek a ruling from EPA ethics officials before participating in the Supreme Court proceedings.

"I couldn't tell whether he was saying whether he was still bound by the impartiality agreement or not," Clark said. "I don't think I could tell because he didn't tell us."

(b) (5) (DPP)

Best,

David

David Fotouhi

Deputy General Counsel

Office of General Counsel

U.S. Environmental Protection Agency

Tel: +1 202.564.1976

fotouhi.david@epa.gov

-----Original Message-----

From: Fotouhi, David

Sent: Monday, May 8, 2017 9:21 PM

To: Minoli, Kevin <Minoli.Kevin@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>;
Greenwalt, Sarah <greenwalt.sarah@epa.gov>

Cc: Schwab, Justin <schwab.justin@epa.gov>

Subject: RE: Recusal

Understood; thanks, Kevin.

Best,

David

David Fotouhi

Deputy General Counsel

Office of General Counsel

U.S. Environmental Protection Agency

Tel: +1 202.564.1976

fotouhi.david@epa.gov

-----Original Message-----

From: Minoli, Kevin

Sent: Monday, May 8, 2017 3:35 PM

To: Fotouhi, David <fotouhi.david@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>;
Greenwalt, Sarah <greenwalt.sarah@epa.gov>

Cc: Schwab, Justin <schwab.justin@epa.gov>

Subject: RE: Recusal

Hi David- This came in on Saturday and Justina is out today. Today I have been dealing with other ethics fire drills in her absence. We will respond tomorrow. Thanks, Kevin

Kevin S. Minoli

Acting General Counsel

Office of General Counsel

US Environmental Protection Agency

Main Office Line: 202-564-8040

-----Original Message-----

From: Fotouhi, David

Sent: Monday, May 08, 2017 3:16 PM

To: Minoli, Kevin <Minoli.Kevin@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>

Cc: Schwab, Justin <schwab.justin@epa.gov>

Subject: Re: Recusal

Kevin, Justina,

(b) (5) (DPP)
[Redacted]
[Redacted]
[Redacted]
[Redacted] Thanks!

Sent from my iPhone

> On May 6, 2017, at 1:35 PM, Greenwalt, Sarah <greenwalt.sarah@epa.gov> wrote:

>

> (b) (5) (DPP)
[Redacted]
[Redacted]
[Redacted]

(b) (5) (DPP)

>

> (b) (5) (DPP) ;?

>

> <image1.PNG>

>

>

> Sent from my iPhone

To: Minoli, Kevin[Minoli.Kevin@epa.gov]; Fugh, Justina[Fugh.Justina@epa.gov]
Cc: Jackson, Ryan[jackson.ryan@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]
From: Greenwalt, Sarah
Sent: Sat 5/6/2017 5:35:25 PM
Subject: Recusal
[image1.PNG](#)
[ATT00001.txt](#)

(b) (5) (DPP)



?

Sent from my iPhone



No. 16-299

In the Supreme Court of the United States

NATIONAL ASSOCIATION OF MANUFACTURERS,
Petitioner,

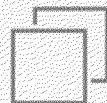
v.

U.S. DEPARTMENT OF DEFENSE,
DEPARTMENT OF THE ARMY CORPS OF ENGINEERS, AND
U.S. ENVIRONMENTAL PROTECTION AGENCY, ET AL.,
Respondents.

ON PETITION FOR WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE
SIXTH CIRCUIT

BRIEF OF RESPONDENTS OHIO, ALABAMA,
ALASKA, ARIZONA, ARKANSAS, COLORADO,
FLORIDA, GEORGIA, IDAHO, INDIANA, KANSAS,
KENTUCKY, LOUISIANA, MICHIGAN, MISSISSIP-
PI, MISSOURI, MONTANA, NEBRASKA, NEVADA,
THE NEW MEXICO STATE ENGINEER, THE NEW
MEXICO ENVIRONMENT DEPARTMENT, THE
NORTH CAROLINA DEPARTMENT OF ENVIRON-
MENTAL QUALITY, NORTH DAKOTA, OKLAHO-
MA, SOUTH CAROLINA, SOUTH DAKOTA, TEN-
NESSEE, TEXAS, UTAH, WEST VIRGINIA, WIS-
CONSIN, AND WYOMING

MICHAEL DEWINE
Attorney General of Ohio
ERIC E. MURPHY*
State Solicitor
**Counsel of Record*
30 East Broad St., 17th Floor
Columbus, Ohio 43215
614-466-8980
eric.murphy@
ohioattorneygeneral.gov
Counsel for Respondent
State of Ohio



To: Fugh, Justina[Fugh.Justina@epa.gov]
Cc: Jackson, Ryan[jackson.ryan@epa.gov]
From: Lyons, Troy
Sent: Fri 5/5/2017 2:26:19 PM
Subject: Fwd: letter to the Administrator
05.02.17 EPW to Pruitt re Ozone.pdf
ATT00001.htm

May 2 ozone recusal letter from senator carper

Sent from my iPhone

Begin forwarded message:

From: "Freedhoff, Michal (EPW)" <Michal_Freedhoff@epw.senate.gov>
Date: May 2, 2017 at 12:54:38 PM EDT
To: "Troy M. Lyons (lyons.troy@epa.gov)" <lyons.troy@epa.gov>
Subject: letter to the Administrator

Hi Troy

Please see the attached.

Thanks

Michal

Michal Ilana Freedhoff, Ph.D.

Director of Oversight

Committee on Environment and Public Works Democratic Staff

JOHN BARRASSO, WYOMING, CHAIRMAN

JAMES M. INHOFE, OKLAHOMA
SHELLEY MOORE CAPITO, WEST VIRGINIA
JOHN BOOZMAN, ARKANSAS
ROGER WICKER, MISSISSIPPI
DEB FISCHER, NEBRASKA
JERRY MORAN, KANSAS
MIKE ROUNDS, SOUTH DAKOTA
JONI ERNST, IOWA
DAN SULLIVAN, ALASKA
RICHARD SHELBY, ALABAMA

THOMAS R. CARPER, DELAWARE
BENJAMIN L. CARDIN, MARYLAND
BERNARD SANDERS, VERMONT
SHELDON WHITEHOUSE, RHODE ISLAND
JEFF MERKLEY, OREGON
KIRSTEN GILLIBRAND, NEW YORK
CORY A. BOOKER, NEW JERSEY
EDWARD J. MARKEY, MASSACHUSETTS
TAMMY DUCKWORTH, ILLINOIS
KAMALA HARRIS, CALIFORNIA

United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

RICHARD M. RUSSELL, MAJORITY STAFF DIRECTOR
GABRIELLE BATKIN, MINORITY STAFF DIRECTOR

May 2, 2017

The Honorable Scott Pruitt
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Dear Administrator Pruitt:

We write to request information on the actions you have taken to address actual or apparent conflicts of interest created by your role in representing the State of Oklahoma in litigation challenging the Environmental Protection Agency's (EPA's) 2015 National Ambient Air Quality Standards (NAAQS) for Ozone. On April 11, 2017, the U.S. Court of Appeals for the D.C. Circuit granted a motion the EPA filed on April 7, 2017^[1] by issuing an order removing from its April 19 calendar oral argument in *Murray Energy v. EPA* (Circuit Court of Appeals for the District of Columbia, USCA Case #15-1385), the action challenging the ozone NAAQS in which you represented the State of Oklahoma as Attorney General. Moreover, the EPA's April 7 motion that requested the court's action states: "EPA intends to closely review the 2015 Rule." We believe you are required to have secured authorization from the EPA's Designated Agency Ethics Officer (DAEO) to participate in these matters. We seek your written confirmation that such authorization has been granted, or that you will recuse yourself from these matters going forward.

Under your tenure as Administrator, the EPA has already asked the courts five times to delay consideration of a lawsuit because the EPA wanted time to decide whether it should change or repeal the rule in question. In at least four of the lawsuits, you had represented the State of Oklahoma as Attorney General seeking to vacate the very rules in question. The *Murray Energy* case is one of these cases. Both the EPA's motion and the statement included in the motion that EPA now intends to review the 2015 Ozone NAAQS also seem to contradict comments made by White House officials that, "there are plenty of rules on the books already we will continue to enforce that provide for clean air... the President has been very clear that he wants the EPA to stick to that basic core mission that Congress set out for it." There is no obligation more central to the mission of the EPA than determining what levels of ozone in the air are unhealthy for our children.

In your January 3, 2017, Ethics Agreement,^[1] you stated that for a one-year period, you "will seek authorization to participate personally and substantially in particular matters involving specific parties in which I know the State of Oklahoma is a party or represents a party." This commitment was reiterated in a January 16, 2017 response to a January 12 letter sent by nine Members of the Environment and Public Works Committee from Kevin Minoli, EPA's

^[1] <https://www.politicopro.com/f/?id=0000015b-4ab3-d932-a97b-ebff4cc30001>

^[2] [https://extapps2.epa.gov/201/Presiden.nsf/PAS+Index/C3B4C444EB20D1FD852580C1002C7A75/\\$FILE/Pruitt.%20Edward%20Scott%20%20%20finalAMENDEDEA.pdf](https://extapps2.epa.gov/201/Presiden.nsf/PAS+Index/C3B4C444EB20D1FD852580C1002C7A75/$FILE/Pruitt.%20Edward%20Scott%20%20%20finalAMENDEDEA.pdf)

Designated Agency Ethics Official (DAEO) and Principal Deputy General Counsel, which also stated:

“Pursuant to the impartiality rules, any court case is considered a specific party matter. Thus, if the State of Oklahoma is a party or represents a party in a particular piece of litigation, Mr. Pruitt’s ethics agreement includes a commitment to seek authorization to participate personally and substantially in that litigation. Should Mr. Pruitt seek authorization to participate in any litigation in which a person with whom he has a covered relationship is a party or represents a party, as stated above, the EPA Designated Agency Ethics Official would consider the factors set forth in 5 C.F.R. section 2635.502(d)(1)-(6) for purposes of compliance with the federal ethics rules.”

Additionally, in response to questions for the record submitted to the Committee on Environment and Public Works you stated:

“As EPA Administrator I will recuse [sic] from participation in litigation in matters in which I represented the State of Oklahoma, unless I receive informed consent from the State of Oklahoma and the permission of relevant federal ethics officials.”

We all continue to believe^[2] that during your confirmation process you should have committed to recuse yourself extensively from a number of matters. Nevertheless, your anticipation of, and preparation for, both the filing of the motion in the DC Circuit and the intended review of the 2015 Ozone NAAQS should have triggered the more limited recusal policy to which you have already, and repeatedly, agreed.


In light of: 1) your Ethics Agreement; 2) the response of EPA’s DAEO to the January 12 letter; 3) your representations to the Environment and Public Works Committee during your confirmation process; 4) your role representing the State of Oklahoma in litigation challenging the 2015 Ozone NAAQS; and, 5) EPA’s April 7 motion, please respond to the following requests in writing and provide copies of all documentation supporting your responses:

1. Other than the actions reflected in the filing of the April 7 motion, have you recused yourself from the actions concerning the 2015 Ozone NAAQS contemplated in the April 7 motion, and, if so, to what extent have you done so?
2. If not, why not? If you have recused yourself from these matters, please provide the name(s) and identify the position(s) of the individual(s) you have directed to act in your stead.
3. Have you sought authorization to participate in those actions from the DAEO – and if you have done so, when did you do so? Please provide a copy of any written material submitted to the DAEO in making, or following up on, that request.
4. Has the DAEO granted such authorization, and if so, has the authorization included any restrictions or limitations on your participation? Please provide a copy of any written material conveying the DAEO’s response.

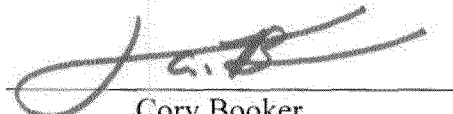
5. If you have neither been recused from participation in this matter nor sought authorization from the DAEO to participate in the actions specified in the April 7 motion with respect to the 2015 Ozone NAAQS, please explain why you have not.
6. Have you requested or received a waiver to participate personally and substantially in any other particular matters involving specific parties in which the State of Oklahoma is a party or represents a party? If so, please provide copies of all such requests and all such grants from the DAEO.

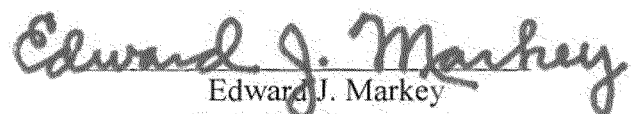
Please provide your responses to these inquiries and requests by no later than May 15, 2017. If you have any questions about these requests, please feel free to contact Michal Freedhoff or Joseph Goffman at the Senate Committee on Environment and Public Works at 202-224-8832. We very much appreciate your prompt attention to this matter.


Sincerely,


Thomas R. Carper
Ranking Member


Sheldon Whitehouse
United States Senator


Cory Booker
United States Senator


Edward J. Markey
United States Senator


Kamala D. Harris
United States Senator

To: Fugh, Justina[Fugh.Justina@epa.gov]
Cc: Lyons, Troy[lyons.troy@epa.gov]
From: Jackson, Ryan
Sent: Fri 5/5/2017 2:26:12 PM
Subject: Draft response to 17-000-7282.docx
Draft response to 17-000-7282.docx WIF, (b) (5) (DPP)

Troy can you send Justina the May letter

To: Fugh, Justina[Fugh.Justina@epa.gov]
Cc: Lyons, Troy[lyons.troy@epa.gov]
From: Jackson, Ryan
Sent: Fri 5/5/2017 2:19:41 PM
Subject: Draft response to 17-000-7282.docx ---- NEW
Draft response to 17-000-7282.docx WIF, (b) (5) (DPP)

Justina, this is what I was thinking we could send to cover all three.

To: Jackson, Ryan[jackson.ryan@epa.gov]; Lyons, Troy[lyons.troy@epa.gov]
Cc: Greenwalt, Sarah[greenwalt.sarah@epa.gov]; Fugh, Justina[Fugh.Justina@epa.gov]
From: Richardson, RobinH
Sent: Fri 4/21/2017 1:54:36 PM
Subject: RE:
[17-000-7145.pdf](#)
[17-000-7478.pdf](#)
[17-000-7282.pdf](#)

Hi Ryan & Justina - Attached are the 3 letters. Please let me know if you need anything additional. Best,
Robin

Robin H Richardson
Principal Deputy Associate Administrator
Office of Congressional and Intergovernmental Relations
U.S. Environmental Protection Agency
202-564-3358 (desk)
703-581-5814 (cell)
richardson.robinh@epa.gov

-----Original Message-----

From: Jackson, Ryan
Sent: Thursday, April 20, 2017 6:42 PM
To: Richardson, RobinH <Richardson.RobinH@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>
Cc: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>
Subject:

Can OCIR forward the three recusal letters we've received from I think carper to Justina for review per our new recusal memo?

Ryan Jackson
Chief of Staff
U.S. EPA
(202) 564-6999

United States Senate

WASHINGTON, DC 20510-3905

March 24, 2017

Kevin Minoli
Designated Agency Ethics Official
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Dear Mr. Minoli:

As requested, this letter provides clarifying information related to my request of January 27, 2017.

1. Please provide the names of all non-career Senior Executive Service, Schedule C, and Administratively-Determined appointees, noting for each the type of appointment, job title, start date, date that they submitted their Office of Government Ethics (OGE) Form 278, date of their ethics briefing, and confirm that they signed President Trump's Ethics Pledge consistent with Executive Order 13,770.
2. As requested, enclosed is a completed OGE Form 201, with an attachment listing all political appointees identified in EPA's January 31, 2017 letter as well as others media reports indicate may have come onboard. I expect that you will supplement this request with any additional individuals identified in response to question one, and unless you advise this is not possible update this response on a monthly basis.
3. For each employee who did not submit a Form 278 form within 30 days of being appointed, please confirm that an extension was granted and what good cause for the extension was shown pursuant to 5 U.S.C. app. 4 § 101(g)(1); 5 C.F.R. § 2634.201(f).
4. Excluding the Administrator's ethics agreement, which is publicly available, please provide all recusals and ethics agreements that have been finalized. Unless you advise that this is not possible, I request that you update your response to this request on a monthly basis.
5. In your January 31st letter you referred to ethics advice provided to new employees via email after initial ethics briefings. Can you please provide those emails?

In addition, with respect to Executive Order 13,770, I would appreciate answers to the following:

1. What forms or other disclosures are appointees required to submit to ensure compliance with the Executive Order's requirements? Please provide those documents for each individual covered by this request, and update that response accordingly.
2. What is the deadline by which that information has to be submitted?
3. Which entities (e.g., EPA DAEO, OGE) are provided with this information? Additionally, which entity ensures recusals/ethics agreements are in compliance with the EO, and that officials that may have to recuse themselves are not working on issues or

engaged in agency activities that would violate the pledge while their 278s and recusals are being processed/finalized?

4. Please provide copies of any policies or guidance issued by EPA, or issued by any other government agency and pursuant to which EPA is operating, related to the negotiation, review and enforcement of ethics agreements executing Executive Order 13,770.

Thank you for your prompt attention to this request.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Whitehouse", written in a cursive style.

Senator Whitehouse
United States Senator

Request to Inspect or Receive Copies of Executive Branch Personnel Public Financial Disclosure Reports or Other Covered Records.

OGE Form 201 (November 2014)

I. Application

1. Applicant's name and address (please print):

Joe Gaeta, Suite 530, Hart Senate Office Building
Washington, DC 20510-3905

Agency Use Only

Received date: _____

Filled date: _____

1a. Office telephone number: (202) 224-2921 ext. _____

2. Occupation:

Senior Advisor

3. If application is for or on behalf of any other person or organization, give the other's name:

U.S. Senator Sheldon Whitehouse

3a. Address of the other person or organization:

Suite 530, Hart Senate Office Building
Washington, DC 20510-3905

4. Type of applicant:

☐ news media ☐ private citizen ☐ public interest group ☐ law firm ☐ other private organization ☒ government

5. ☐ Copy of the most recent (or other, specify which and whether to include OGE Form 278-Ts) Public Financial Disclosure Report Form OGE Form 278/SF 278 requested for the following named individual(s):

a. see attached

d. _____

b. _____

e. _____

c. _____

f. _____

Certain other types of records ("covered records") can also be requested using this form (see Part III below); if you are requesting another covered record, check this box ☐ and specify which type of record(s): _____

6. Indicate how you wish to receive this request:

☒ Pick up at OGE ☐ By mail (at the address listed above)

I am aware that this request for access to a public financial disclosure report is an official Government form (OGE Form 201). In completing this OGE Form 201, any intentionally false or misleading statement, certification, or response provided in this form is a violation of law punishable by a fine or imprisonment, or both, under 18 U.S.C. § 1001. Pursuant to section 105(c) of the Ethics in Government Act of 1978 and 5 C.F.R. § 2634.603(f) of the implementing OGE regulation, it is unlawful for any person to obtain or use a report:

- (1) for any unlawful purpose;
- (2) for any commercial purpose, other than by news and communications media for dissemination to the general public;
- (3) for determining or establishing the credit rating of any individual; or
- (4) for use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose.

The U.S. Attorney General may bring a civil action against any person who obtains or uses a report for any such prohibited purpose as set forth above. The court may assess against such a person a penalty in any amount not to exceed \$11,000. Such remedy shall be in addition to any other remedy available under statutory or common law.

7. Applicant's signature: _____

Date: 3/24/17

II. Notice of Action

☐ Copies of the report(s) or other covered record(s) you requested are enclosed.

☐ Picked up by (signature): _____ Date: _____

☐ Your request does not comply with the requirements of the statute. Please complete Part I of this form and return so we may comply with your request.

☐ Fees. If applicable, amount: _____ (when fees are required, make out a check payable to the U.S. Treasury and send it to the executive branch agency processing this request form).

(form continued on reverse side)

Form Approved OMB No. 3209-0002

Question 5 - Named Individuals

Bangerter, Layne
Benton, Don
Brown, Byron
Davis, Patrick
Dravis, Samantha
Ericksen, Doug
Greaves, Holly
Gunasekara, Amanda
Hale, Michelle
Jackson, Ryan
Konkus, David
Kreutzer, David
Munoz, Charles
Schwab, Justin
Schnare, David
Sugiyama, George
David Schnare

JAMES M. INHOE, OKLAHOMA
 SHELLEY MOORE CAPITO, WEST VIRGINIA
 VINCE BODZMAN, ARKANSAS
 ROGER WEXLER, MISSISSIPPI
 DEE FISCHER, NEBRASKA
 JERRY MURPHY, KANSAS
 MIKE ROONDS, SOUTH DAKOTA
 JON HERSH, IOWA
 DAN SULLIVAN, ALASKA
 RICHARD SHERRY, ALABAMA

THOMAS R. CARPER, DELAWARE
 BENJAMIN L. CARDIN, MARYLAND
 BERNARD SANDERS, VERMONT
 SHELDON WHITEHOUSE, RHODE ISLAND
 JEFF MERKLEY, OREGON
 KRISTEN GILLIBRAND, NEW YORK
 CORY A. BOOKER, NEW JERSEY
 EDWARD J. MARKEY, MASSACHUSETTS
 TAMMY BLICKWORTH, ILLINOIS
 KAMALA HARRIS, CALIFORNIA

United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

RICHARD M. RUSSELL, MAJORITY STAFF DIRECTOR
 GABRIELLE BATON, MINORITY STAFF DIRECTOR

March 21, 2017

The Honorable Scott Pruitt
 Administrator
 Environmental Protection Agency
 1200 Pennsylvania Ave., NW
 Washington, DC 20004

Dear Administrator Pruitt:

Prior to your confirmation as Administrator, you committed, both to EPA's Designated Ethics Official (DAEO) and to Members of the Environment and Public Works Committee, to avoid actual or apparent conflicts of interest. We are seeking information on the actions you have taken to address the conflict created by i) your role in representing the State of Oklahoma in litigation challenging the EPA's Clean Water Rule and ii) the direction issued to you in the February 28 executive order on "The Waters of the United States", which, among other instructions, includes in section 2(c) explicit direction concerning that very litigation.¹

In your January 3, 2017, Ethics Agreement,² you stated that for a one-year period, you "will seek authorization to participate personally and substantially in particular matters involving specific parties in which I know the State of Oklahoma is a party or represents a party." This commitment was reiterated in a January 16, 2017 response to a January 12 letter sent by nine Members of the Environment and Public Works Committee from Kevin Minoli, EPA's Designated Agency Ethics Official (DAEO) and Principal Deputy General Counsel, which also stated:

"Pursuant to the impartiality rules, any court case is considered a specific party matter. Thus, if the State of Oklahoma is a party or represents a party in a particular piece of litigation, Mr. Pruitt's ethics agreement includes a commitment to seek authorization to participate personally and substantially in that litigation. Should Mr. Pruitt seek authorization to participate in any litigation in which a person with whom he has a covered relationship is a party or represents a party, as stated above, the EPA Designated Agency Ethics Official would consider the factors set forth in 5 C.F.R. section 2635.502(d)(1)-(6) for purposes of compliance with the federal ethics rules."

Additionally, in response to questions for the record submitted to the Committee on Environment and Public Works you stated:

¹ <https://www.whitehouse.gov/the-press-office/2017/02/28/presidential-executive-order-restoring-rule-law-federalism-and-economic>

² [https://extapps2.oge.gov/201/Presiden.nsf/PAS+Index/C3B4C444EB20D1FD852580C1002C7A75/\\$FILE/Pruitt,%20Edward%20Scott%20%20%20finalAMENDEDEA.pdf](https://extapps2.oge.gov/201/Presiden.nsf/PAS+Index/C3B4C444EB20D1FD852580C1002C7A75/$FILE/Pruitt,%20Edward%20Scott%20%20%20finalAMENDEDEA.pdf)

"As EPA Administrator I will recuse [sic] from participation in litigation in matters in which I represented the State of Oklahoma, unless I receive informed consent from the State of Oklahoma and the permission of relevant federal ethics officials."

In July 2015, you filed an action in the U.S. Circuit Court of Appeals for the Tenth Circuit (*State of Oklahoma ex. rel E.Scott Pruitt v. EPA*) challenging the Clean Water Rule (interpreting "Waters of the United States") on behalf of the State of Oklahoma; the case was later consolidated and transferred to the Sixth Circuit (*In re: Department of Defense and U.S. EPA Final Rule: Clean Water Rule*).

In the February 28 Executive Order, the President directed you to i) "review" the Clean Water Rule (interpreting "Waters of the United States") and propose a rule "rescinding or revising" the final rule, and ii) "review all orders, rules, regulations, guidelines, or policies implementing or enforcing the final rule" and to "rescind or revise" or propose "rules rescinding or revising" the same. Additionally, section 2(c) of the Order directed as follows: "With respect to any litigation before the Federal Courts related to the final rule listed in subsection (a) of this section, the Administrator shall ... promptly notify the Attorney General of the pending review ... so that the Attorney General may, as he deems appropriate, inform any court of such review and take such measure as he deems appropriate concerning such litigation"

Although we all continue to believe³ that you should have made more extensive recusals than the ones you committed to, the specific language in section 2(c) of the Order should have triggered even the more limited recusal policy to which you have already and repeatedly agreed.

In light of: 1) your Ethics Agreement; 2) the response of EPA's DAEO to the January 12 letter; 3) your representation to the Committee during your confirmation process; 4) your role representing the State of Oklahoma in litigation challenging the Clean Water Rule; and 5) the direction you received in the Executive Order concerning that litigation, please respond within five (5) business days to the following requests in writing and provide copies of all documentation supporting your responses:

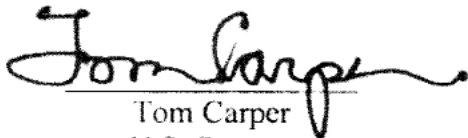
1. Have you recused yourself from actions concerning the Clean Water Rule specified in the February 28 Executive Order, and, if so, to what extent have you done so? If not, why not? If so, please also provide the name(s) and identify the position(s) of the individual(s) you have directed to act in your stead.
2. Have you sought authorization to participate in those actions from the DAEO – and if you have done so, when did you do so? Please provide a copy of any written material submitted to the DAEO in making, or following up on, that request.
3. Has the DAEO granted such authorization, and if so, has the authorization included any restrictions or limitations on your participation? Please provide a copy of any written material conveying the DAEO's response.
4. If you have neither been recused from participation in this matter nor sought authorization from the DAEO to participate in the actions directed by the Executive Order with respect to the Clean Water Rule, please explain why you have not.
5. Have you requested or received a waiver to participate personally and substantially in any other particular matters involving specific parties in which the State of Oklahoma is a

³ <http://www.markey.senate.gov/imo/media/doc/Pruitt%20recusal%20letter%2002.16.17.pdf>

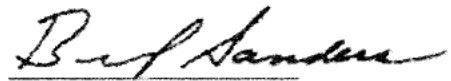
party or represents a party? If so, please provide copies of all such requests and all such grants from the DAEO.

Please provide your responses to these inquiries and requests by no later than March 29, 2017. If you have any questions about these requests, please feel free to contact Michal Freedhoff or Joseph Goffman at the Committee on Environment and Public Works at 202 224 8832. We very much appreciate your prompt attention to this matter.

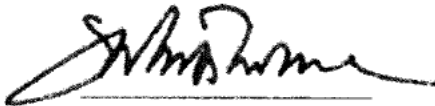
Sincerely,



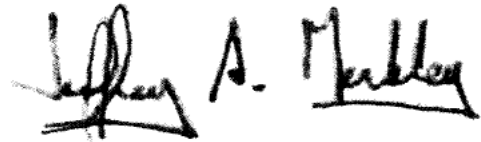
Tom Carper
U.S. Senator



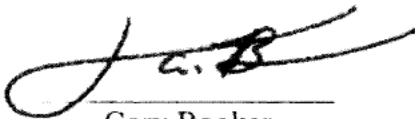
Bernard Sanders
U.S. Senator




Sheldon Whitehouse
U.S. Senator



Jeffrey Merkley
U.S. Senator



Cory Booker
U.S. Senator



Edward J. Markey
U.S. Senator

United States Senate

WASHINGTON, DC 20510

April 7, 2017

The Honorable Scott Pruitt
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Administrator Pruitt:

Prior to your confirmation as Administrator, you committed to avoid actual or apparent conflicts of interest. We write to request information on the actions you have taken to address likely conflicts created by your role in representing the State of Oklahoma in litigation challenging the EPA's Clean Power Plan. On the same day that President Trump issued his March 28, 2017 Executive Order on Energy Independence you took two significant actions with respect the Clean Power Plan. You signed a Federal Register "Notice of Review of the Clean Power Plan." You also filed a Motion to Hold Cases in Abeyance in *State of West Virginia, et al. v. United States Environmental Protection Agency, et al.* (Circuit Court of Appeals for the District of Columbia, USCA Case #15-1363), the very case in which you represented the State of Oklahoma. Two days later, on March 30, you sent a letter to 47 governors propounding a legal interpretation of the effect of the Supreme Court's stay of the Clean Power Plan, a stay which you yourself sought in your capacity as Attorney General of Oklahoma. We believe you are required to have secured authorization from the Environmental Protection Agency's Designated Agency Ethics Officer (DAEO) to participate in these matters. We seek your written confirmation that such authorization has been granted, or that you will recuse yourself from these matters going forward.

In your January 3, 2017, Ethics Agreement,^[1] you stated that for a one-year period, you "will seek authorization to participate personally and substantially in particular matters involving specific parties in which I know the State of Oklahoma is a party or represents a party." This commitment was reiterated in a January 16, 2017 response to a January 12 letter sent by nine Members of the Environment and Public Works Committee from Kevin Minoli, EPA's Designated Agency Ethics Official (DAEO) and Principal Deputy General Counsel, which also stated:

"Pursuant to the impartiality rules, any court case is considered a specific party matter. Thus, if the State of Oklahoma is a party or represents a party in a particular piece of litigation, Mr. Pruitt's ethics agreement includes a commitment to seek authorization to participate personally and substantially in that litigation. Should Mr. Pruitt seek authorization to participate in any litigation in which a person with whom he has a covered relationship is a party or represents a party, as stated above, the EPA Designated

^[1][https://extapps2.oge.gov/201/Presiden.nsf/PAS+Index/C3B4C444EB20D1FD852580C1002C7A75/\\$FILE/Pruitt,%20Edward%20Scott%20%20%20finalAMENDEDEA.pdf](https://extapps2.oge.gov/201/Presiden.nsf/PAS+Index/C3B4C444EB20D1FD852580C1002C7A75/$FILE/Pruitt,%20Edward%20Scott%20%20%20finalAMENDEDEA.pdf)

Agency Ethics Official would consider the factors set forth in 5 C.F.R. section 2635.502(d)(1)-(6) for purposes of compliance with the federal ethics rules.”

Additionally, in response to questions for the record submitted to the Committee on Environment and Public Works you stated:

“As EPA Administrator I will recuse [sic] from participation in litigation in matters in which I represented the State of Oklahoma, unless I receive informed consent from the State of Oklahoma and the permission of relevant federal ethics officials.”

Beginning in August 2014, you filed actions in both the U.S. Circuit Court of Appeals for the District of Columbia (*West Virginia v. EPA*) and the Northern District of Oklahoma challenging the Clean Power Plan on behalf of the State of Oklahoma.

In the March 28 Notice you state that “EPA is initiating ... review of the CPP”, and that “EPA’s review will be followed by a rulemaking process” if the review determines that a rulemaking is appropriate. In part on the basis of that Notice, the EPA moved the D.C. Circuit Court of Appeals on March 28 to hold cases consolidated under *West Virginia v. EPA* in abeyance.

We all continue to believe^[2] that you should have committed to recuse yourself extensively from a number of matters during your confirmation process. Nevertheless, your anticipation of, and preparation for, signing of the Federal Register Notice and filing of the Motion in the DC Circuit should have triggered the more limited recusal policy to which you have already and repeatedly agreed.

In light of: 1) your Ethics Agreement; 2) the response of EPA’s DAEO to the January 12 letter; 3) your representations to the Environment and Public Works Committee during your confirmation process; 4) your role representing the State of Oklahoma in litigation challenging the Clean Power Plan; and 5) the March 28 Notice and the March 28 Motion, please respond to the following requests in writing and provide copies of all documentation supporting your responses:

1. Other than the actions you took on March 28, have you recused yourself from the actions concerning the Clean Power Plan specified in the March 28 Notice, and, if so, to what extent have you done so?
2. If not, why not? If you have recused yourself from these matters, please provide the name(s) and identify the position(s) of the individual(s) you have directed to act in your stead.
3. Have you sought authorization to participate in those actions from the DAEO – and if you have done so, when did you do so? Please provide a copy of any written material submitted to the DAEO in making, or following up on, that request.
4. Has the DAEO granted such authorization, and if so, has the authorization included any restrictions or limitations on your participation? Please provide a copy of any written material conveying the DAEO’s response.

^[2] <http://www.markey.senate.gov/imo/media/doc/Pruitt%20recusal%20letter%2002.16.17.pdf>


5. If you have neither been recused from participation in this matter nor sought authorization from the DAEO to participate in the actions specified in the March 28 Notice with respect to the Clean Power Plan, please explain why you have not.
6. Have you requested or received a waiver to participate personally and substantially in any other particular matters involving specific parties in which the State of Oklahoma is a party or represents a party? If so, please provide copies of all such requests and all such grants from the DAEO.

Please provide your responses to these inquiries and requests by no later than April 21, 2017. If you have any questions about these requests, please feel free to contact Michal Freedhoff or Joseph Goffman at the Committee on Environment and Public Works at 202-224-8832. We very much appreciate your prompt attention to this matter.

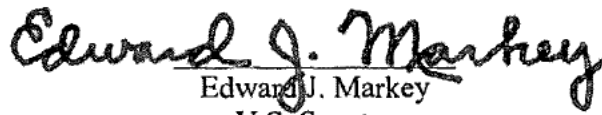
Sincerely,

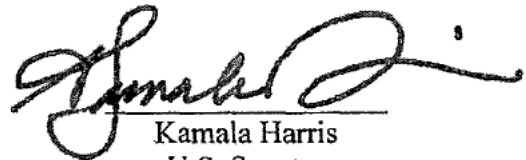

Tom Carper
Ranking Member


Sheldon Whitehouse
U.S. Senator


Jeffrey Merkley
U.S. Senator



Cory Booker
U.S. Senator



Edward J. Markey
U.S. Senator


Kamala Harris
U.S. Senator


Maria Cantwell
U.S. Senator


Richard Durbin
U.S. Senator


Richard Blumenthal
U.S. Senator


Patrick Leahy
U.S. Senator

To: Lyons, Troy[lyons.troy@epa.gov]
Cc: Fugh, Justina[Fugh.Justina@epa.gov]; Jackson, Ryan[jackson.ryan@epa.gov]; Richardson, RobinH[Richardson.RobinH@epa.gov]; Minoli, Kevin[Minoli.Kevin@epa.gov]
From: Greenwalt, Sarah
Sent: Thur 4/20/2017 7:11:39 PM
Subject: Re: Administrator's recusal and answering congressional inquiries

Yes that's great. Justina, can you call me really quickly? 202-816-1388

Sent from my iPhone

On Apr 20, 2017, at 3:07 PM, Lyons, Troy <lyons.troy@epa.gov> wrote:

Ok here.

Sent from my iPhone

On Apr 20, 2017, at 2:06 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Hi there,

I expect that the Administrator will soon sign his recusal statement. I met with Ryan earlier today, and (b) (5) (DPP)

[REDACTED]

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A |
Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground
deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

To: Fugh, Justina[Fugh.Justina@epa.gov]
Cc: Greenwalt, Sarah[greenwalt.sarah@epa.gov]; Jackson, Ryan[jackson.ryan@epa.gov]; Richardson, RobinH[Richardson.RobinH@epa.gov]; Minoli, Kevin[Minoli.Kevin@epa.gov]
From: Lyons, Troy
Sent: Thur 4/20/2017 7:07:17 PM
Subject: Re: Administrator's recusal and answering congressional inquiries

Ok here.

Sent from my iPhone

On Apr 20, 2017, at 2:06 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Hi there,

I expect that the Administrator will soon sign his recusal statement. I met with Ryan earlier today, and (b) (5) (DPP)

[REDACTED]

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

To: Fugh, Justina[Fugh.Justina@epa.gov]
Cc: Jackson, Ryan[jackson.ryan@epa.gov]; Minoli, Kevin[Minoli.Kevin@epa.gov]
From: Greenwalt, Sarah
Sent: Wed 4/5/2017 11:56:43 PM
Subject: RE: Update on Recusal

Thanks Justina! (b) (5) (DPP)

Sarah A. Greenwalt

Senior Advisor to the Administrator

for Water and Cross-Cutting Issues

U.S. Environmental Protection Agency

Work: 202-564-1722|Cell: 202-816-1388

Greenwalt.Sarah@epa.gov

From: Fugh, Justina
Sent: Wednesday, April 5, 2017 7:07 PM
To: Greenwalt, Sarah <greenwalt.sarah@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>; Minoli, Kevin <Minoli.Kevin@epa.gov>
Subject: RE: Update on Recusal

Hi,

(b) (5) (DPP)

Also, I saw the law librarian earlier today and asked about PACER. She said that she does have an account and that there can be fees that are associated with usage over a certain amount. But she said that the information provided is also available on CourtLink, and you can easily get access to that. To do so, just contact her at turley.jennifer@epa.gov.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Jackson, Ryan
Sent: Tuesday, April 04, 2017 7:50 PM
To: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Minoli, Kevin <Minoli.Kevin@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: Update on Recusal

Eager to get this finished. Thank you.

From: Greenwalt, Sarah
Sent: Tuesday, April 4, 2017 4:10 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>; Minoli, Kevin <Minoli.Kevin@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Update on Recusal

Ryan and Kevin,

(b) (5) (DPP)



Thanks again, Justina!

Sarah A. Greenwalt

Senior Advisor to the Administrator
for Water and Cross-Cutting Issues

U.S. Environmental Protection Agency

Work: 202-564-1722|Cell: 202-816-1388

Greenwalt.Sarah@epa.gov

To: Greenwalt, Sarah[greenwalt.sarah@epa.gov]; Minoli, Kevin[Minoli.Kevin@epa.gov]; Fugh, Justina[Fugh.Justina@epa.gov]
From: Jackson, Ryan
Sent: Tue 4/4/2017 11:49:47 PM
Subject: RE: Update on Recusal

Eager to get this finished. Thank you.

From: Greenwalt, Sarah
Sent: Tuesday, April 4, 2017 4:10 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>; Minoli, Kevin <Minoli.Kevin@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Update on Recusal

Ryan and Kevin,

(b) (5) (DPP)



Thanks again, Justina!

Sarah A. Greenwalt

Senior Advisor to the Administrator

for Water and Cross-Cutting Issues

U.S. Environmental Protection Agency

Work: 202-564-1722|Cell: 202-816-1388

Greenwalt.Sarah@epa.gov

To: Jackson, Ryan[jackson.ryan@epa.gov]; Minoli, Kevin[Minoli.Kevin@epa.gov]; Fugh, Justina[Fugh.Justina@epa.gov]
From: Greenwalt, Sarah
Sent: Tue 4/4/2017 8:10:18 PM
Subject: Update on Recusal

Ryan and Kevin,

(b) (5) (DPP)



Thanks again, Justina!

Sarah A. Greenwalt

Senior Advisor to the Administrator
for Water and Cross-Cutting Issues

U.S. Environmental Protection Agency

Work: 202-564-1722|Cell: 202-816-1388

Greenwalt.Sarah@epa.gov

To: Fotouhi, David[fotouhi.david@epa.gov]; Minoli, Kevin[Minoli.Kevin@epa.gov]; Greenwalt, Sarah[greenwalt.sarah@epa.gov]
Cc: Schwab, Justin[schwab.justin@epa.gov]
From: Fugh, Justina
Sent: Tue 5/9/2017 6:52:08 PM
Subject: RE: Recusal

Hi,

(b) (5) (DPP)



Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

From: Fotouhi, David
Sent: Tuesday, May 09, 2017 1:01 PM
To: Minoli, Kevin <Minoli.Kevin@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>;
Greenwalt, Sarah <greenwalt.sarah@epa.gov>
Cc: Schwab, Justin <schwab.justin@epa.gov>
Subject: RE: Recusal

(b) (5) (DPP)



One area where Pruitt's recusal is unclear is in challenges to the Clean Water Rule, which delineates which rivers and streams are subject to Clean Water Act protections.

While Pruitt vowed not to participate in lawsuits challenging the rule in two federal appellate courts, he may still participate in questions currently before the U.S. Supreme Court. Pruitt said Oklahoma was not a party to that challenge, but did file a friend of the court brief on which court is the proper venue to hear lawsuits over the jurisdiction rule.

Pruitt said he would seek a ruling from EPA ethics officials before participating in the Supreme Court proceedings.

"I couldn't tell whether he was saying whether he was still bound by the impartiality agreement or not," Clark said. "I don't think I could tell because he didn't tell us."

(b) (5) (DPP)

?

Best,

David

David Fotouhi

Deputy General Counsel

Office of General Counsel

U.S. Environmental Protection Agency

Tel: +1 202.564.1976

fotouhi.david@epa.gov

-----Original Message-----

From: Fotouhi, David

Sent: Monday, May 8, 2017 9:21 PM

To: Minoli, Kevin <Minoli.Kevin@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>;
Greenwalt, Sarah <greenwalt.sarah@epa.gov>

Cc: Schwab, Justin <schwab.justin@epa.gov>

Subject: RE: Recusal

Understood; thanks, Kevin.

Best,

David

David Fotouhi

Deputy General Counsel

Office of General Counsel

U.S. Environmental Protection Agency

Tel: +1 202.564.1976

fotouhi.david@epa.gov

-----Original Message-----

From: Minoli, Kevin

Sent: Monday, May 8, 2017 3:35 PM

To: Fotouhi, David <fotouhi.david@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>;
Greenwalt, Sarah <greenwalt.sarah@epa.gov>

Cc: Schwab, Justin <schwab.justin@epa.gov>

Subject: RE: Recusal

Hi David- This came in on Saturday and Justina is out today. Today I have been dealing with other ethics fire drills in her absence. We will respond tomorrow. Thanks, Kevin

Kevin S. Minoli

Acting General Counsel

Office of General Counsel

US Environmental Protection Agency

Main Office Line: 202-564-8040

-----Original Message-----

From: Fotouhi, David

Sent: Monday, May 08, 2017 3:16 PM

To: Minoli, Kevin <Minoli.Kevin@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>

Cc: Schwab, Justin <schwab.justin@epa.gov>

Subject: Re: Recusal

Kevin, Justina,

(b) (5) (DPP) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] Thanks!

Sent from my iPhone

> On May 6, 2017, at 1:35 PM, Greenwalt, Sarah <greenwalt.sarah@epa.gov> wrote:

>

> (b) (5) (DPP) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED] ?

>

> <image1.PNG>

>


>

> Sent from my iPhone

To: Greenwalt, Sarah[greenwalt.sarah@epa.gov]; Minoli, Kevin[Minoli.Kevin@epa.gov]
Cc: Jackson, Ryan[jackson.ryan@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]
From: Fugh, Justina
Sent: Tue 5/9/2017 6:42:50 PM
Subject: RE: Recusal

Hi,

(b) (5) (DPP)



Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

-----Original Message-----

From: Greenwalt, Sarah
Sent: Saturday, May 06, 2017 1:35 PM
To: Minoli, Kevin <Minoli.Kevin@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>
Subject: Recusal

(b) (5) (DPP)



To: Lyons, Troy[lyons.troy@epa.gov]; Jackson, Ryan[jackson.ryan@epa.gov]
From: Fugh, Justina
Sent: Fri 5/5/2017 4:21:46 PM
Subject: RE: RE: FW:
[Response to ethics recusal congressionals signed.pdf](#)

Also, here is the scanned version FYI. Heading to OCIR main offices now.

From: Fugh, Justina
Sent: Friday, May 05, 2017 12:20 PM
To: Lyons, Troy <lyons.troy@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>
Subject: RE: RE: FW:

Just signed with stamp so on my way to you now. Where are you?

From: Lyons, Troy
Sent: Friday, May 05, 2017 12:19 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Re: RE: FW:

Justina, any clearance on Kevin's signature?

Sent from my iPhone

On May 5, 2017, at 11:32 AM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:

Yes maam. Thank you. Troy and I anxiously waiting to send to the Hill for you.

From: Fugh, Justina
Sent: Friday, May 5, 2017 11:21 AM
To: Lyons, Troy <lyons.troy@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>
Subject: RE: FW:

Hi there,

I made very minor changes to the letter (b) (5) (DPP)
(b) (5) (DPP)

Once I hear from Kevin about how to proceed with signing, I will take care of it and bring the signed and dated document directly to you. To recap, this response will be used to answer AL-7282 (sent 3/21/17), AL-7478 (sent 4/7/17) and the ozone letter (sent 5/2/17).

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Lyons, Troy
Sent: Friday, May 05, 2017 11:07 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Re: FW:

Justina-please let us know if you have any concerns/edits as we would like to get this out in the early afternoon.

Sent from my iPhone

On May 5, 2017, at 10:28 AM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:

I sent this to Kevin, but of course he's out today. Do you need to review this too?

From: Jackson, Ryan
Sent: Friday, May 5, 2017 10:13 AM
To: Minoli, Kevin <Minoli.Kevin@epa.gov>
Subject: FW:
Importance: High

Will you review this?

From: Jackson, Ryan
Sent: Friday, May 5, 2017 10:11 AM
To: Lyons, Troy <lyons.troy@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Ferguson, Lincoln <ferguson.lincoln@epa.gov>; Freire, JP <Freire.JP@epa.gov>
Subject:
Importance: High

This is THE response.

Please review one more time.

Ryan Jackson

Chief of Staff

U.S. Environmental Protection Agency

(202) 564-6999

<5-5 DRAFT Carper Response.docx>



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

MAY - 5 2017

OFFICE OF
GENERAL COUNSEL

The Honorable John Barrasso
Chairman
U.S. Senate Environment and
Public Works Committee
Washington, DC 20510

The Honorable Tom Carper
Ranking Member
U.S. Senate Environment and
Public Works Committee
Washington, D.C. 20510

Dear Chairman Barrasso and Ranking Member Carper:

Thank you the opportunity to respond to letters that Administrator E. Scott Pruitt received on March 21, 2017, April 7, 2017, and May 2, 2017, in which he was asked for specific information related to the actions undertaken by him as Administrator of the United States Environmental Protection Agency, to comply with federal ethics obligations. As the Designated Agency Ethics Official (DAEO), I am writing on behalf of the Administrator.

My staff and I have been working assiduously with the Administrator to ensure that he complies fully with his ethics obligations. Enclosed please find his signed recusal statement. As you can see, Mr. Pruitt has avoided participating in particular matters that affect his former employer, the State of Oklahoma, as a specific party. In addition, he has not participated in nor will he participate in any litigation in which the State of Oklahoma was a party, petitioner or intervenor.

We appreciate your continued interest in ensuring that the EPA provides effective ethics advice and counseling to all of our employees. If you have further questions, you may contact me at minoli.kevin@epa.gov or (202) 564-8040, or Justina Fugh, Senior Counsel for Ethics, at fugh.justina@epa.gov or (202) 564-1786.

Sincerely yours,

A handwritten signature in black ink, appearing to read "K S. Minoli", is written over the typed name.

Kevin S. Minoli
Designated Agency Ethics Official
Acting General Counsel

Enclosure

To: Lyons, Troy[lyons.troy@epa.gov]; Jackson, Ryan[jackson.ryan@epa.gov]
From: Fugh, Justina
Sent: Fri 5/5/2017 3:21:08 PM
Subject: RE: FW: WIF, (b) (5) (DPP)
Response to ethics recusal congressionals.docx

Hi there,

I made very minor changes to the letter (b) (5) (DPP)

(b) (5) (DPP)

Once I hear from Kevin about how to proceed with signing, I will take care of it and bring the signed and dated document directly to you. To recap, this response will be used to answer AL-7282 (sent 3/21/17), AL-7478 (sent 4/7/17) and the ozone letter (sent 5/2/17).

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

From: Lyons, Troy
Sent: Friday, May 05, 2017 11:07 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Re: FW:

Justina-please let us know if you have any concerns/edits as we would like to get this out in the early afternoon.

Sent from my iPhone

On May 5, 2017, at 10:28 AM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:

I sent this to Kevin, but of course he's out today. Do you need to review this too?

From: Jackson, Ryan
Sent: Friday, May 5, 2017 10:13 AM
To: Minoli, Kevin <Minoli.Kevin@epa.gov>
Subject: FW:
Importance: High

Will you review this?

From: Jackson, Ryan
Sent: Friday, May 5, 2017 10:11 AM
To: Lyons, Troy <lyons.troy@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>;
Ferguson, Lincoln <ferguson.lincoln@epa.gov>; Freire, JP <Freire.JP@epa.gov>
Subject:
Importance: High

This is THE response.

Please review one more time.

Ryan Jackson

Chief of Staff

U.S. Environmental Protection Agency

(202) 564-6999

<5-5 DRAFT Carper Response.docx>

To: Jackson, Ryan[jackson.ryan@epa.gov]
From: Fugh, Justina
Sent: Tue 4/25/2017 7:52:19 PM
Subject: answering congressional inquiries
[17-000-7282.pdf](#)
[17-000-7145.pdf](#)
[17-000-7478.pdf](#)
[Draft response to 17-000-7282.docx](#) WIF, (b) (5) (DPP)

Hi Ryan,

Yep, I drafted responses and sent them to you, Robin and Kevin on Friday of last week. Here it is again in case you missed it in the many other emails you receive.

I was out yesterday, but Robin called me to discuss. We're playing phone tag but I hope we connect soon. On the recusal front, I'll ask Kevin if he has any comments and, if not, then I can bring the statement to you so that we can secure the Administrator's signature.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Fugh, Justina
Sent: Friday, April 21, 2017 4:27 PM
To: Richardson, RobinH <Richardson.RobinH@epa.gov>; Minoli, Kevin <Minoli.Kevin@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: RE: Administrator's recusal and answering congressional inquiries


Hi Robin and Kevin,

Kevin is reviewing the draft recusal statement for the Administrator, so Ryan asked me to start preparing responses to the various ethics-related congressional inquiries. Although Kevin will sign, we want to be sure (of course!) that OCIR provides its expert advice about the response. So I'm sending to you now for any comments you may have.

17-000-7282 (3/21/17) from Carper, Sanders, Whitehouse, Merkley, Booker

17-000-7478 (4/7/17) from Carper, Markey, Cantwell, Blumenthal, Leahy, Durbin, Harris, Whitehouse, Merkley, Booker

(b) (5) (DPP)



17-000-7145 (3/24/17) from Whitehouse

(b) (5) (DPP)




17-000-3815 (12/22/16) from Senator Carper

17-000-7283 (3/22/17) from Senator Warren

17-000-7118 (4/4/17) from Senator McCaskill

17-000-7572 (4/14/17) from Senators Whitehouse, Carper, Schatz, Markey (two of the questions deal with ethics)

(b) (5) (DPP)



Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

From: Richardson, RobinH
Sent: Thursday, April 20, 2017 5:58 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>;
Lyons, Troy <lyons.troy@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>; Minoli, Kevin <Minoli.Kevin@epa.gov>
Subject: RE: Administrator's recusal and answering congressional inquiries

Hi Justina – Here to help, just say when. Thank you! Best, Robin

Robin H Richardson

Principal Deputy Associate Administrator

Office of Congressional and Intergovernmental Relations

U.S. Environmental Protection Agency

202-564-3358 (desk)

703-581-5814 (cell)

richardson.robinh@epa.gov

From: Fugh, Justina

Sent: Thursday, April 20, 2017 3:07 PM


To: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>

Cc: Jackson, Ryan <jackson.ryan@epa.gov>; Richardson, RobinH <Richardson.RobinH@epa.gov>; Minoli, Kevin <Minoli.Kevin@epa.gov>

Subject: Administrator's recusal and answering congressional inquiries

Hi there,

I expect that the Administrator will soon sign his recusal statement. I met with Ryan earlier today, and (b) (5) (DPP)



Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

United States Senate

WASHINGTON, DC 20510-3905

March 24, 2017

Kevin Minoli
Designated Agency Ethics Official
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Dear Mr. Minoli:

As requested, this letter provides clarifying information related to my request of January 27, 2017.

1. Please provide the names of all non-career Senior Executive Service, Schedule C, and Administratively-Determined appointees, noting for each the type of appointment, job title, start date, date that they submitted their Office of Government Ethics (OGE) Form 278, date of their ethics briefing, and confirm that they signed President Trump's Ethics Pledge consistent with Executive Order 13,770.
2. As requested, enclosed is a completed OGE Form 201, with an attachment listing all political appointees identified in EPA's January 31, 2017 letter as well as others media reports indicate may have come onboard. I expect that you will supplement this request with any additional individuals identified in response to question one, and unless you advise this is not possible update this response on a monthly basis.
3. For each employee who did not submit a Form 278 form within 30 days of being appointed, please confirm that an extension was granted and what good cause for the extension was shown pursuant to 5 U.S.C. app. 4 § 101(g)(1); 5 C.F.R. § 2634.201(f).
4. Excluding the Administrator's ethics agreement, which is publicly available, please provide all recusals and ethics agreements that have been finalized. Unless you advise that this is not possible, I request that you update your response to this request on a monthly basis.
5. In your January 31st letter you referred to ethics advice provided to new employees via email after initial ethics briefings. Can you please provide those emails?

In addition, with respect to Executive Order 13,770, I would appreciate answers to the following:

1. What forms or other disclosures are appointees required to submit to ensure compliance with the Executive Order's requirements? Please provide those documents for each individual covered by this request, and update that response accordingly.
2. What is the deadline by which that information has to be submitted?
3. Which entities (e.g., EPA DAEO, OGE) are provided with this information? Additionally, which entity ensures recusals/ethics agreements are in compliance with the EO, and that officials that may have to recuse themselves are not working on issues or

engaged in agency activities that would violate the pledge while their 278s and recusals are being processed/finalized?

4. Please provide copies of any policies or guidance issued by EPA, or issued by any other government agency and pursuant to which EPA is operating, related to the negotiation, review and enforcement of ethics agreements executing Executive Order 13,770.

Thank you for your prompt attention to this request.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Whitehouse", written in a cursive style.

Senator Whitehouse
United States Senator

Request to Inspect or Receive Copies of Executive Branch Personnel Public Financial Disclosure Reports or Other Covered Records.

OGE Form 201 (November 2014)

I. Application

1. Applicant's name and address (please print):

Joe Gaeta, Suite 530, Hart Senate Office Building
Washington, DC 20510-3905

Agency Use Only

Received date: _____

Filled date: _____

1a. Office telephone number: (202) 224-2921 ext. _____

2. Occupation:

Senior Advisor

3. If application is for or on behalf of any other person or organization, give the other's name:
U.S. Senator Sheldon Whitehouse

3a. Address of the other person or organization:
Suite 530, Hart Senate Office Building
Washington, DC 20510-3905

4. Type of applicant:

☐ news media ☐ private citizen ☐ public interest group ☐ law firm ☐ other private organization ☒ government

5. ☐ Copy of the most recent (or other, specify which and whether to include OGE Form 278-Ts) Public Financial Disclosure Report Form OGE Form 278/SF 278 requested for the following named individual(s):

a. see attached

d. _____

b. _____

e. _____

c. _____

f. _____

Certain other types of records ("covered records") can also be requested using this form (see Part III below); if you are requesting another covered record, check this box ☐ and specify which type of record(s): _____

6. Indicate how you wish to receive this request:

☒ Pick up at OGE ☐ By mail (at the address listed above)

I am aware that this request for access to a public financial disclosure report is an official Government form (OGE Form 201). In completing this OGE Form 201, any intentionally false or misleading statement, certification, or response provided in this form is a violation of law punishable by a fine or imprisonment, or both, under 18 U.S.C. § 1001. Pursuant to section 105(c) of the Ethics in Government Act of 1978 and 5 C.F.R. § 2634.603(f) of the implementing OGE regulation, it is unlawful for any person to obtain or use a report:

- (1) for any unlawful purpose;
- (2) for any commercial purpose, other than by news and communications media for dissemination to the general public;
- (3) for determining or establishing the credit rating of any individual; or
- (4) for use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose.

The U.S. Attorney General may bring a civil action against any person who obtains or uses a report for any such prohibited purpose as set forth above. The court may assess against such a person a penalty in any amount not to exceed \$11,000. Such remedy shall be in addition to any other remedy available under statutory or common law.

7. Applicant's signature: _____

Date: 3/24/17

II. Notice of Action

☐ Copies of the report(s) or other covered record(s) you requested are enclosed.

☐ Picked up by (signature): _____ Date: _____

☐ Your request does not comply with the requirements of the statute. Please complete Part I of this form and return so we may comply with your request.

☐ Fees. If applicable, amount: _____ (when fees are required, make out a check payable to the U.S. Treasury and send it to the executive branch agency processing this request form).

(form continued on reverse side)

Form Approved OMB No. 3209-0002

Question 5 - Named Individuals

Bangerter, Layne
Benton, Don
Brown, Byron
Davis, Patrick
Dravis, Samantha
Ericksen, Doug
Greaves, Holly
Gunasekara, Amanda
Hale, Michelle
Jackson, Ryan
Konkus, David
Kreutzer, David
Munoz, Charles
Schwab, Justin
Schnare, David
Sugiyama, George
David Schnare

JAMES M. INHOFE, OKLAHOMA
 SHELLEY MOORE CAPITO, WEST VIRGINIA
 VINCE ROEDERMAN, ARKANSAS
 ROGER WEXLER, MISSISSIPPI
 DEE FISCHER, NEBRASKA
 JERRY MURPHY, KANSAS
 MIKE ROONDS, SOUTH DAKOTA
 JON HERTZ, IOWA
 DAN SULLIVAN, ALASKA
 RICHARD SHERRY, ALABAMA

THOMAS R. CARPER, DELAWARE
 BENJAMIN L. CARDIN, MARYLAND
 BERNARD SANDERS, VERMONT
 SHELDON WHITEHOUSE, RHODE ISLAND
 JEFF MERKLEY, OREGON
 KRISTEN GILLIBRAND, NEW YORK
 CORY A. BOOKER, NEW JERSEY
 EDWARD J. MARKEY, MASSACHUSETTS
 TAMMY BLICKWORTH, ILLINOIS
 KAMALA HARRIS, CALIFORNIA

United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

RICHARD M. RUSSELL, MAJORITY STAFF DIRECTOR
 GABRIELLE BATTON, MINORITY STAFF DIRECTOR

March 21, 2017

The Honorable Scott Pruitt
 Administrator
 Environmental Protection Agency
 1200 Pennsylvania Ave., NW
 Washington, DC 20004

Dear Administrator Pruitt:

Prior to your confirmation as Administrator, you committed, both to EPA's Designated Ethics Official (DAEO) and to Members of the Environment and Public Works Committee, to avoid actual or apparent conflicts of interest. We are seeking information on the actions you have taken to address the conflict created by i) your role in representing the State of Oklahoma in litigation challenging the EPA's Clean Water Rule and ii) the direction issued to you in the February 28 executive order on "The Waters of the United States", which, among other instructions, includes in section 2(c) explicit direction concerning that very litigation.¹

In your January 3, 2017, Ethics Agreement,² you stated that for a one-year period, you "will seek authorization to participate personally and substantially in particular matters involving specific parties in which I know the State of Oklahoma is a party or represents a party." This commitment was reiterated in a January 16, 2017 response to a January 12 letter sent by nine Members of the Environment and Public Works Committee from Kevin Minoli, EPA's Designated Agency Ethics Official (DAEO) and Principal Deputy General Counsel, which also stated:

"Pursuant to the impartiality rules, any court case is considered a specific party matter. Thus, if the State of Oklahoma is a party or represents a party in a particular piece of litigation, Mr. Pruitt's ethics agreement includes a commitment to seek authorization to participate personally and substantially in that litigation. Should Mr. Pruitt seek authorization to participate in any litigation in which a person with whom he has a covered relationship is a party or represents a party, as stated above, the EPA Designated Agency Ethics Official would consider the factors set forth in 5 C.F.R. section 2635.502(d)(1)-(6) for purposes of compliance with the federal ethics rules."

Additionally, in response to questions for the record submitted to the Committee on Environment and Public Works you stated:

¹ <https://www.whitehouse.gov/the-press-office/2017/02/28/presidential-executive-order-restoring-rule-law-federalism-and-economic>

² [https://extapps2.oge.gov/201/Presiden.nsf/PAS+Index/C3B4C444EB20D1FD852580C1002C7A75/\\$FILE/Pruitt,%20Edward%20Scott%20%20%20finalAMENDEDEA.pdf](https://extapps2.oge.gov/201/Presiden.nsf/PAS+Index/C3B4C444EB20D1FD852580C1002C7A75/$FILE/Pruitt,%20Edward%20Scott%20%20%20finalAMENDEDEA.pdf)

"As EPA Administrator I will recuse [sic] from participation in litigation in matters in which I represented the State of Oklahoma, unless I receive informed consent from the State of Oklahoma and the permission of relevant federal ethics officials."

In July 2015, you filed an action in the U.S. Circuit Court of Appeals for the Tenth Circuit (*State of Oklahoma ex. rel E.Scott Pruitt v. EPA*) challenging the Clean Water Rule (interpreting "Waters of the United States") on behalf of the State of Oklahoma; the case was later consolidated and transferred to the Sixth Circuit (*In re: Department of Defense and U.S. EPA Final Rule: Clean Water Rule*).

In the February 28 Executive Order, the President directed you to i) "review" the Clean Water Rule (interpreting "Waters of the United States") and propose a rule "rescinding or revising" the final rule, and ii) "review all orders, rules, regulations, guidelines, or policies implementing or enforcing the final rule" and to "rescind or revise" or propose "rules rescinding or revising" the same. Additionally, section 2(c) of the Order directed as follows: "With respect to any litigation before the Federal Courts related to the final rule listed in subsection (a) of this section, the Administrator shall ... promptly notify the Attorney General of the pending review ... so that the Attorney General may, as he deems appropriate, inform any court of such review and take such measure as he deems appropriate concerning such litigation"

Although we all continue to believe³ that you should have made more extensive recusals than the ones you committed to, the specific language in section 2(c) of the Order should have triggered even the more limited recusal policy to which you have already and repeatedly agreed.

In light of: 1) your Ethics Agreement; 2) the response of EPA's DAEO to the January 12 letter; 3) your representation to the Committee during your confirmation process; 4) your role representing the State of Oklahoma in litigation challenging the Clean Water Rule; and 5) the direction you received in the Executive Order concerning that litigation, please respond within five (5) business days to the following requests in writing and provide copies of all documentation supporting your responses:

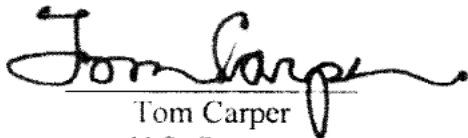
1. Have you recused yourself from actions concerning the Clean Water Rule specified in the February 28 Executive Order, and, if so, to what extent have you done so? If not, why not? If so, please also provide the name(s) and identify the position(s) of the individual(s) you have directed to act in your stead.
2. Have you sought authorization to participate in those actions from the DAEO – and if you have done so, when did you do so? Please provide a copy of any written material submitted to the DAEO in making, or following up on, that request.
3. Has the DAEO granted such authorization, and if so, has the authorization included any restrictions or limitations on your participation? Please provide a copy of any written material conveying the DAEO's response.
4. If you have neither been recused from participation in this matter nor sought authorization from the DAEO to participate in the actions directed by the Executive Order with respect to the Clean Water Rule, please explain why you have not.
5. Have you requested or received a waiver to participate personally and substantially in any other particular matters involving specific parties in which the State of Oklahoma is a

³ <http://www.markey.senate.gov/imo/media/doc/Pruitt%20recusal%20letter%2002.16.17.pdf>

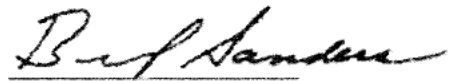
party or represents a party? If so, please provide copies of all such requests and all such grants from the DAEO.

Please provide your responses to these inquiries and requests by no later than March 29, 2017. If you have any questions about these requests, please feel free to contact Michal Freedhoff or Joseph Goffman at the Committee on Environment and Public Works at 202 224 8832. We very much appreciate your prompt attention to this matter.

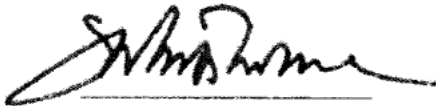
Sincerely,



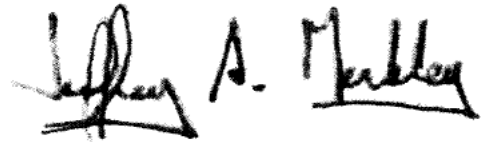
Tom Carper
U.S. Senator



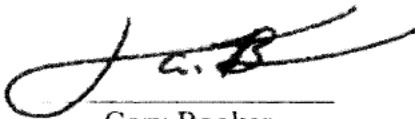
Bernard Sanders
U.S. Senator




Sheldon Whitehouse
U.S. Senator



Jeffrey Merkley
U.S. Senator



Cory Booker
U.S. Senator



Edward J. Markey
U.S. Senator

United States Senate

WASHINGTON, DC 20510

April 7, 2017

The Honorable Scott Pruitt
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Administrator Pruitt:

Prior to your confirmation as Administrator, you committed to avoid actual or apparent conflicts of interest. We write to request information on the actions you have taken to address likely conflicts created by your role in representing the State of Oklahoma in litigation challenging the EPA's Clean Power Plan. On the same day that President Trump issued his March 28, 2017 Executive Order on Energy Independence you took two significant actions with respect the Clean Power Plan. You signed a Federal Register "Notice of Review of the Clean Power Plan." You also filed a Motion to Hold Cases in Abeyance in *State of West Virginia, et al. v. United States Environmental Protection Agency, et al.* (Circuit Court of Appeals for the District of Columbia, USCA Case #15-1363), the very case in which you represented the State of Oklahoma. Two days later, on March 30, you sent a letter to 47 governors propounding a legal interpretation of the effect of the Supreme Court's stay of the Clean Power Plan, a stay which you yourself sought in your capacity as Attorney General of Oklahoma. We believe you are required to have secured authorization from the Environmental Protection Agency's Designated Agency Ethics Officer (DAEO) to participate in these matters. We seek your written confirmation that such authorization has been granted, or that you will recuse yourself from these matters going forward.

In your January 3, 2017, Ethics Agreement,^[1] you stated that for a one-year period, you "will seek authorization to participate personally and substantially in particular matters involving specific parties in which I know the State of Oklahoma is a party or represents a party." This commitment was reiterated in a January 16, 2017 response to a January 12 letter sent by nine Members of the Environment and Public Works Committee from Kevin Minoli, EPA's Designated Agency Ethics Official (DAEO) and Principal Deputy General Counsel, which also stated:

"Pursuant to the impartiality rules, any court case is considered a specific party matter. Thus, if the State of Oklahoma is a party or represents a party in a particular piece of litigation, Mr. Pruitt's ethics agreement includes a commitment to seek authorization to participate personally and substantially in that litigation. Should Mr. Pruitt seek authorization to participate in any litigation in which a person with whom he has a covered relationship is a party or represents a party, as stated above, the EPA Designated

^[1][https://extapps2.oge.gov/201/Presiden.nsf/PAS+Index/C3B4C444EB20D1FD852580C1002C7A75/\\$FILE/Pruitt,%20Edward%20Scott%20%20%20finalAMENDEDEA.pdf](https://extapps2.oge.gov/201/Presiden.nsf/PAS+Index/C3B4C444EB20D1FD852580C1002C7A75/$FILE/Pruitt,%20Edward%20Scott%20%20%20finalAMENDEDEA.pdf)

Agency Ethics Official would consider the factors set forth in 5 C.F.R. section 2635.502(d)(1)-(6) for purposes of compliance with the federal ethics rules.”

Additionally, in response to questions for the record submitted to the Committee on Environment and Public Works you stated:

“As EPA Administrator I will recuse [sic] from participation in litigation in matters in which I represented the State of Oklahoma, unless I receive informed consent from the State of Oklahoma and the permission of relevant federal ethics officials.”

Beginning in August 2014, you filed actions in both the U.S. Circuit Court of Appeals for the District of Columbia (*West Virginia v. EPA*) and the Northern District of Oklahoma challenging the Clean Power Plan on behalf of the State of Oklahoma.

In the March 28 Notice you state that “EPA is initiating ... review of the CPP”, and that “EPA’s review will be followed by a rulemaking process” if the review determines that a rulemaking is appropriate. In part on the basis of that Notice, the EPA moved the D.C. Circuit Court of Appeals on March 28 to hold cases consolidated under *West Virginia v. EPA* in abeyance.

We all continue to believe^[2] that you should have committed to recuse yourself extensively from a number of matters during your confirmation process. Nevertheless, your anticipation of, and preparation for, signing of the Federal Register Notice and filing of the Motion in the DC Circuit should have triggered the more limited recusal policy to which you have already and repeatedly agreed.

In light of: 1) your Ethics Agreement; 2) the response of EPA’s DAEO to the January 12 letter; 3) your representations to the Environment and Public Works Committee during your confirmation process; 4) your role representing the State of Oklahoma in litigation challenging the Clean Power Plan; and 5) the March 28 Notice and the March 28 Motion, please respond to the following requests in writing and provide copies of all documentation supporting your responses:

1. Other than the actions you took on March 28, have you recused yourself from the actions concerning the Clean Power Plan specified in the March 28 Notice, and, if so, to what extent have you done so?
2. If not, why not? If you have recused yourself from these matters, please provide the name(s) and identify the position(s) of the individual(s) you have directed to act in your stead.
3. Have you sought authorization to participate in those actions from the DAEO – and if you have done so, when did you do so? Please provide a copy of any written material submitted to the DAEO in making, or following up on, that request.
4. Has the DAEO granted such authorization, and if so, has the authorization included any restrictions or limitations on your participation? Please provide a copy of any written material conveying the DAEO’s response.

^[2] <http://www.markey.senate.gov/imo/media/doc/Pruitt%20recusal%20letter%2002.16.17.pdf>

5. If you have neither been recused from participation in this matter nor sought authorization from the DAEO to participate in the actions specified in the March 28 Notice with respect to the Clean Power Plan, please explain why you have not.
6. Have you requested or received a waiver to participate personally and substantially in any other particular matters involving specific parties in which the State of Oklahoma is a party or represents a party? If so, please provide copies of all such requests and all such grants from the DAEO.

Please provide your responses to these inquiries and requests by no later than April 21, 2017. If you have any questions about these requests, please feel free to contact Michal Freedhoff or Joseph Goffman at the Committee on Environment and Public Works at 202-224-8832. We very much appreciate your prompt attention to this matter.

Sincerely,



Tom Carper
Ranking Member



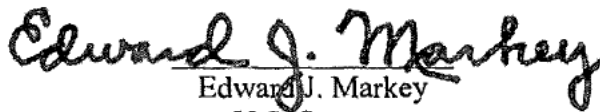
Sheldon Whitehouse
U.S. Senator



Jeffrey Merkley
U.S. Senator



Cory Booker
U.S. Senator



Edward J. Markey
U.S. Senator



Kamala Harris
U.S. Senator



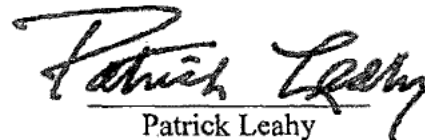
Maria Cantwell
U.S. Senator



Richard Durbin
U.S. Senator



Richard Blumenthal
U.S. Senator



Patrick Leahy
U.S. Senator

To: Jackson, Ryan[jackson.ryan@epa.gov]
From: Fugh, Justina
Sent: Thur 4/20/2017 9:42:37 PM
Subject: here is the Administrator's signed ethics agreement
[Ethicsagreementsdatedsigned.pdf](#)

This is the document that we sent to the Office of Government Ethics and that was sent to the Senate EPW. It indicates that he will resign from his outside positions.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

JAN 09 2017

Mr. Kevin S. Minoli
Designated Agency Ethics Official
U.S. EPA (2310A)
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Mr. Minoli:

The purpose of this letter is to describe the steps that I will take to avoid any actual or apparent conflict of interest in the event that I am confirmed for the position of Administrator of the United States Environmental Protection Agency.

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

Upon confirmation, I will resign from my positions with the following entities: Southern Baptist Theological Seminary, and the Windows Ministry Incorporated. I resigned from my position with the Rule of Law Defense Fund on December 8, 2016. For a period of one year after my resignation from each of these entities, I will not participate personally and substantially in any particular matter involving specific parties in which I know that entity is a party or represents a party, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d).

Upon confirmation, I will resign from my position as Attorney General of the State of Oklahoma. For a period of one year after my resignation, I will have a "covered relationship" under 5 C.F.R. § 2635.502 with the State of Oklahoma. Pursuant to 5 C.F.R. § 2635.502(d), I will seek authorization to participate personally and substantially in particular matters involving specific parties in which I know the State of Oklahoma is a party or represents a party.

I have been advised that this ethics agreement will be posted publicly, consistent with 5 U.S.C. § 552, on the website of the U.S. Office of Government Ethics with ethics agreements of other Presidential nominees who file public financial disclosure reports.

Sincerely yours,



Edward Scott Pruitt

To: Jackson, Ryan[jackson.ryan@epa.gov]
Cc: Greenwalt, Sarah[greenwalt.sarah@epa.gov]; Minoli, Kevin[Minoli.Kevin@epa.gov]
From: Fugh, Justina
Sent: Wed 4/19/2017 3:44:58 PM
Subject: RE: WIF, (b) (5) (DPP)
Recusal for Scott Pruitt 4-18-17.docx

Absolutely! Here is what I sent to Sarah and Kevin yesterday as my final version of the recusal statement. (b) (5) (DPP)

ture.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

-----Original Message-----

From: Jackson, Ryan
Sent: Wednesday, April 19, 2017 11:27 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Greenwalt, Sarah <greenwalt.sarah@epa.gov>
Subject:

Can we get the final final recusal memo today?

Ryan Jackson

Chief of Staff

U.S. EPA

(202) 564-6999

To: Greenwalt, Sarah[greenwalt.sarah@epa.gov]
Cc: Jackson, Ryan[jackson.ryan@epa.gov]; Minoli, Kevin[Minoli.Kevin@epa.gov]
From: Fugh, Justina
Sent: Wed 4/5/2017 11:07:22 PM
Subject: RE: Update on Recusal

Hi,

(b) (5) (DPP)

?

Also, I saw the law librarian earlier today and asked about PACER. She said that she does have an account and that there can be fees that are associated with usage over a certain amount. But she said that the information provided is also available on CourtLink, and you can easily get access to that. To do so, just contact her at turley.jennifer@epa.gov.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

From: Jackson, Ryan
Sent: Tuesday, April 04, 2017 7:50 PM
To: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Minoli, Kevin <Minoli.Kevin@epa.gov>;
Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: Update on Recusal

Eager to get this finished. Thank you.

From: Greenwalt, Sarah
Sent: Tuesday, April 4, 2017 4:10 PM

To: Jackson, Ryan <jackson.ryan@epa.gov>; Minoli, Kevin <Minoli.Kevin@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Update on Recusal

Ryan and Kevin,

(b) (5) (DPP)



Thanks again, Justina!

Sarah A. Greenwalt

Senior Advisor to the Administrator
for Water and Cross-Cutting Issues

U.S. Environmental Protection Agency

Work: 202-564-1722|Cell: 202-816-1388

Greenwalt.Sarah@epa.gov

To: Greenwalt, Sarah[greenwalt.sarah@epa.gov]
Cc: Hale, Michelle[hale.michelle@epa.gov]
From: Fugh, Justina
Sent: Mon 4/3/2017 3:51:01 PM
Subject: RE: addresses for resignation letters

Got it.

From: Greenwalt, Sarah
Sent: Monday, April 03, 2017 11:35 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Hale, Michelle <hale.michelle@epa.gov>
Subject: RE: addresses for resignation letters

These look great!

Michelle, please confirm with AP his position at each of these entities and insert into the drafts. Let's get them signed and sent today if we can.

Justina, (b) (5) (DPP)

A large rectangular area of the document is redacted with a solid grey fill, obscuring several lines of text.

Sarah A. Greenwalt

Senior Advisor to the Administrator

for Water and Cross-Cutting Issues

U.S. Environmental Protection Agency

Work: 202-564-1722|Cell: 202-816-1388

Greenwalt.Sarah@epa.gov

From: Fugh, Justina
Sent: Monday, April 3, 2017 11:16 AM
To: Greenwalt, Sarah <greenwalt.sarah@epa.gov>
Cc: Hale, Michelle <hale.michelle@epa.gov>
Subject: RE: addresses for resignation letters

Dear Sarah,

Please see the attached draft resignation letters. Thanks to Michelle for the addresses!

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

From: Hale, Michelle
Sent: Monday, April 03, 2017 10:46 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Greenwalt, Sarah <greenwalt.sarah@epa.gov>
Subject: addresses for resignation letters

Dr. Mohler, President

Southern Baptist Theological Seminary

2825 Lexington Rd.

Louisville, KY 40280

Bob Wagnor, Board Chairman

Windows Ministry Inc.

9408 S. Sandusky Place

Tulsa, Ok 74137

Michelle Hale

Executive Assistant to the Administrator

Environmental Protection Agency

1200 Pennsylvania Ave., NW,

WJCS, Suite 3000

Washington, D.C. 20460


(202) 564-1430

Confidentiality Warning: This message and any attachments are intended only for the use of the recipient(s), are confidential, and may be privileged. If you are not the intended recipient, you are hereby notified that any review, retransmission, conversion to hard copy, copying, circulation or other use of all or any portion of this message and any attachments is strictly prohibited. If you are not the intended recipient, please notify the sender immediately by return email and delete this message and any attachments from your system.

To: Greenwalt, Sarah[greenwalt.sarah@epa.gov]
Cc: Jackson, Ryan[jackson.ryan@epa.gov]
From: Fugh, Justina
Sent: Fri 3/31/2017 2:39:13 PM
Subject: for meeting at 12:30 today on recusals WIF, (b) (5) (DPP)
Recusal for Scott Pruitt 3-31-17 v2.docx
UPDATED Attachment - active cases OK is party petitioner intervenor.xlsx
UPDATED Attachment - active cases OK filed amicus.xlsx
Attachment 2 - OK cases from QFRs (first set).xlsx

Hi there,

(b) (5) (DPP)



(b) (5) (DPP)



Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

ACTIVE CASES

(State of Oklahoma filed an amicus brief)

Case	Court/Case No.	Date Filed	Oklahoma Role	Subject Matter
(b) (5) (DPP)				

ACTIVE CASES

(State of Oklahoma is a party, petitioner, intervenor)

Case	Court/Case No.	Date Filed	Oklahoma Role	Subject Matter
(b) (5) (DPP)				

To: Greenwalt, Sarah[greenwalt.sarah@epa.gov]
Cc: Minoli, Kevin[Minoli.Kevin@epa.gov]
From: Fugh, Justina
Sent: Thur 3/30/2017 8:48:45 PM
Subject: RE: update on recusal

Hi Sarah,

If you tell me where you are, I'll come find you at 9:30 am on Friday!

Best,

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

From: Greenwalt, Sarah
Sent: Wednesday, March 29, 2017 8:11 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Minoli, Kevin <Minoli.Kevin@epa.gov>
Subject: RE: update on recusal

So far, free from 9:30-1pm. Happy to meet any time.

(b) (5) (DPP)

Sarah A. Greenwalt

Senior Advisor to the Administrator

for Water and Cross-Cutting Issues

U.S. Environmental Protection Agency

Work: 202-564-1722|Cell: 202-816-1388

Greenwalt.Sarah@epa.gov

From: Fugh, Justina
Sent: Wednesday, March 29, 2017 1:27 PM
To: Greenwalt, Sarah <greenwalt.sarah@epa.gov>
Cc: Minoli, Kevin <Minoli.Kevin@epa.gov>
Subject: Re: update on recusal

Hi,

I am currently free all day on Friday. Woo hoo! What's your availability?

Justina

Sent from my iPhone

On Mar 29, 2017, at 3:12 AM, Greenwalt, Sarah <greenwalt.sarah@epa.gov> wrote:

That's great, thanks. (b) (5) (DPP)

(b) (5) (DPP)


Sent from my iPhone

On Mar 29, 2017, at 1:53 AM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Hi Sarah,

(b) (5) (DPP)

(b) (5) (DPP)



(b) (5) (DPP)



Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Greenwalt, Sarah
Sent: Tuesday, March 28, 2017 10:52 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: update on recusal

Hi Justina!

(b) (5) (DPP)

(b) (5) (DPP)

Appreciate your help!

-SG

Sarah A. Greenwalt

Senior Advisor to the Administrator

for Water and Cross-Cutting Issues

U.S. Environmental Protection Agency

Work: 202-564-1722|Cell: 202-816-1388

Greenwalt.Sarah@epa.gov

From: Fugh, Justina

Sent: Thursday, March 23, 2017 3:57 PM

To: Minoli, Kevin <Minoli.Kevin@epa.gov>; Greenwalt, Sarah
<greenwalt.sarah@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>

Subject: update on recusal

Hi there,

Attached is a revised recusal statement for the Administrator which includes Sarah Greenwalt as the primary contact for litigation matters (as requested yesterday by Kevin after a discussion with Sarah). *See* first attachment. This recusal provides that the Administrator will recuse from participation in active cases in which Oklahoma

was a party, petitioner or intervenor. *See* second attachment for the list of cases.

(
b
)
(
:

(b) (5) (DPP)
[Redacted text block]

Finally, we need (b) (5) (DPP)
[Redacted text block]

Cheers,
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

To: Greenwalt, Sarah[greenwalt.sarah@epa.gov]
Cc: Minoli, Kevin[Minoli.Kevin@epa.gov]
From: Fugh, Justina
Sent: Wed 3/29/2017 5:27:08 PM
Subject: Re: update on recusal

Hi,
I am currently free all day on Friday. Woo hoo! What's your availability?
Justina

Sent from my iPhone

On Mar 29, 2017, at 3:12 AM, Greenwalt, Sarah <greenwalt.sarah@epa.gov> wrote:

That's great, thanks. (b) (5) (DPP)

[Redacted]

Sent from my iPhone

On Mar 29, 2017, at 1:53 AM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Hi Sarah,

(b) (5) (DPP)

[Redacted]

(b) (5) (DPP)

[Redacted]

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Greenwalt, Sarah
Sent: Tuesday, March 28, 2017 10:52 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: update on recusal

Hi Justina!

(b) (5) (DPP) [REDACTED]

(b) (5) (DPP) [REDACTED] ?

Appreciate your help!

-SG

Sarah A. Greenwalt

Senior Advisor to the Administrator
for Water and Cross-Cutting Issues

U.S. Environmental Protection Agency
Work: 202-564-1722|Cell: 202-816-1388
Greenwalt.Sarah@epa.gov

From: Fugh, Justina
Sent: Thursday, March 23, 2017 3:57 PM
To: Minoli, Kevin <Minoli.Kevin@epa.gov>; Greenwalt, Sarah
<greenwalt.sarah@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>
Subject: update on recusal

Hi there,


Attached is a revised recusal statement for the Administrator which includes Sarah Greenwalt as the primary contact for litigation matters (as requested yesterday by Kevin after a discussion with Sarah). *See* first attachment. This recusal provides that the Administrator will recuse from participation in active cases in which Oklahoma was a party, petitioner or intervenor. *See* second attachment for the list of cases.

[REDACTED] (b)
[REDACTED] b
[REDACTED])
[REDACTED] (

(b) (5) (DPP)

[REDACTED]

(b) (5) (DPP)

A large rectangular area of the document is redacted with a solid grey fill. The redaction covers approximately three lines of text, starting from the line containing the redaction code and extending downwards.

Cheers,
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

To: Jackson, Ryan[jackson.ryan@epa.gov]
From: Fugh, Justina
Sent: Wed 3/29/2017 6:27:23 AM
Subject: RE:

Hi,

(b) (5) (DPP)

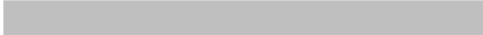


Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

From: Jackson, Ryan
Sent: Wednesday, March 22, 2017 7:40 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject:

(b) (5) (DPP)


 . Right?

Ryan Jackson

Chief of Staff


U.S. Environmental Protection Agency

(202) 564-6999

To: Greenwalt, Sarah[greenwalt.sarah@epa.gov]
Cc: Minoli, Kevin[Minoli.Kevin@epa.gov]
From: Fugh, Justina
Sent: Wed 3/29/2017 5:53:50 AM
Subject: RE: update on recusal

Hi Sarah,

(b) (5) (DPP)



(b) (5) (DPP)



Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

From: Greenwalt, Sarah
Sent: Tuesday, March 28, 2017 10:52 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>

Subject: RE: update on recusal

Hi Justina!

(b) (5) (DPP)

(b) (5) (DPP)

?

Appreciate your help!

-SG

Sarah A. Greenwalt

Senior Advisor to the Administrator

for Water and Cross-Cutting Issues

U.S. Environmental Protection Agency

Work: 202-564-1722|Cell: 202-816-1388

Greenwalt.Sarah@epa.gov

From: Fugh, Justina

Sent: Thursday, March 23, 2017 3:57 PM

To: Minoli, Kevin <Minoli.Kevin@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>;
Jackson, Ryan <jackson.ryan@epa.gov>

Subject: update on recusal

Hi there,

Attached is a revised recusal statement for the Administrator which includes Sarah Greenwalt as the primary contact for litigation matters (as requested yesterday by Kevin after a discussion with Sarah). *See* first attachment. This recusal provides that the Administrator will recuse from participation in active cases in which Oklahoma was a party, petitioner or intervenor. *See* second attachment for the list of cases. (b) (5) (DPP)

(b) (5) (DPP)

(b) (5) (DPP)

(b) (5) (DPP)

Cheers,
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

To: Minoli, Kevin[Minoli.Kevin@epa.gov]; Greenwalt, Sarah[greenwalt.sarah@epa.gov]; Jackson, Ryan[jackson.ryan@epa.gov]
From: Fugh, Justina
Sent: Thur 3/23/2017 7:57:18 PM
Subject: update on recusal
Recusal for Scott Pruitt 3-23-17.docx
UPDATED Attachment - active cases OK is party petitioner intervenor.xlsx
UPDATED Attachment - active cases OK filed amicus.xlsx

WIF, (b) (5) (DPP)

Hi there,

Attached is a revised recusal statement for the Administrator which includes Sarah Greenwalt as the primary contact for litigation matters (as requested yesterday by Kevin after a discussion with Sarah). *See* first attachment. This recusal provides that the Administrator will recuse from participation in active cases in which Oklahoma was a party, petitioner or intervenor. *See* second attachment for the list of cases. (b) (5) (DPP)

(b) (5) (DPP)

(b) (5) (DPP)

Cheers,
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

ED_001267_00019682-00001

(b) (5) (DPP)



(b) (5) (DPP)



To: Jackson, Ryan[jackson.ryan@epa.gov]
From: Fugh, Justina
Sent: Wed 3/22/2017 10:20:49 PM
Subject: draft recusal statement
Recusal for Scott Pruitt 3-16-17.docx
draft recusal attachment list 2.xlsx
draft recusal attachment list 3.xlsx
draft recusal attachment.xlsx

Hi there,

As we discussed earlier, here is a draft recusal statement for the Administrator to consider. (b) (5) (DPP)

[Redacted text block]

The second excel attachment is a list of the cases that Mr. Pruitt identified in his responses to the Senate Environment and Public Works Committee that appear to be ones that he worked on personally and substantially. (b) (5) (DPP)

[Redacted text block]

(b) (5) (DPP)

[Redacted text block]

Cheers,
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

**Attachment 3 - CASES IDENTIFIED BY SCOTT
PRUITT IN CONFIRMATION HEARING**

**Initiated by AG Edmondson, continued under AG
Pruitt**

Case

Oklahoma v. Tronox

Oklahoma v. Kelco Manufacturing

Oklahoma and EPA v. Apco

Oklahoma v. Michelin/BFG

Oklahoma and ODEQ v. Blackwell Zinc

Oklahoma and NRC v. Fansteel

Oklahoma and Cherokee Nation v. Sequoyah Fuels
Corp.

EPA, State of Oklahoma v. Doe Run Mining et al

ODWC v. Kent Feeds El Reno Fish Kill

Oklahoma v. Tulsa Fuels

Oklahoma v. Tyson Foods et al.

Initiated by AG Pruitt

Case

EPA, Oklahoma and Texas v. Mahard Egg Farm

Plains & Eastern Clean Line

FEMA Flood Zone

ODWC v. Southern Towing

Oklahoma v. Conoco Phillips

Oklahoma v. BP

Scenic Rivers Joint Study Committee

Tulsa County Smelter Complex

COTT PRUITT IN CONFIRMATION HEARING

under AG Pruitt

Description

Multi-state environmental bankruptcy case; numerous environmental statutes involved; natural resource damage claims on behalf of state and Secretary of Environment arising from legacy contamination from Kerr McGee at 5 sites; resulted in \$17 million payout to Oklahoma.

Represented ODWC for mussel kill in Deep Fork River related to pollution released into river by Kelco in its manufacturing process. \$30,000 payout to Oklahoma and requires Kelco to restock approximately 15,000 freshwater mussels.

Represented ODEQ and Secretary of Environment for response costs and NRD for cleanup of shuttered oil refinery. Cleanup included removing refinery structure and remediation of oil waste pits and other contaminants. Case now closed, resulted in \$700,000 settlement with Oklahoma for natural resource damages and \$900,000 to Oklahoma and ODEQ for response costs settlement.

Ongoing environmental clean up case; represented ODEQ and Secretary of Environment in ongoing remediation efforts to clean up contamination and benzene plume at closed BFG tire plant. Demolition of many structures complete; Michelin agreed under consent decree and tolling agreement to clean up site. Work is ongoing.

Represented and worked with ODEQ and Secretary of Environment in cleanup of Blackwell Zinc site. Resulted in remediation of affected soils and yards in Blackwell and also blood level testing of children in Blackwell.

Represented state in cleanup of Fansteel site along Arkansas River and worked with Nuclear Regulatory Commission. Fansteel filed for bankruptcy protection in September 2016 despite series of forbearance agreements with NRC, DOJ, and Oklahoma DEQ.

Ongoing remediation efforts in conjunction with Nuclear Regulatory Commission. Represented ODEQ and Secretary of Environment in implementing site restoration plan and cleanup of radioactive materials at former fuel plant. Ongoing efforts to either remove or dispose on site raffinate sludge material and then closure of the disposal cell.

Tar Creek; CERCLA superfund case. NRD Claim. Represented ODEQ and OSE; Member/legal representation of Tar Creek Trustee Counsel and Tri-State Counsel; ongoing negotiations with mining companies on response costs settlement and drafting NRD restoration plan; represented state in Peabody Energy Bankruptcy for claims arising at Tar Creek site. Ongoing.

Represented ODWC for fish kill caused by waste grain discharge into North Canadian River. \$5,000 payout to Oklahoma.

CERCLA superfund site. Cleanup of former zinc smelter site, hazardous chemicals in soil, sediment and surface water. EPA selected a cleanup plan for this site. Construction of remedy began in August 2014 and was completed in September 2016.

Poultry litigation case filed and tried before Judge Frizzell by former AG Drew Edmondson; monitored case and met with parties during AG Pruitt's tenure

Description

Plaintiff with EPA and Texas; case to clean up large lay hen operation that was over applying poultry waste to land and failing to borrow both state and federal CAFO anti-pollution laws. Case resulted in \$1.9 million dollar penalty and lagoon closures, better carcass management, ground water monitoring and restricted grazing and field testing at numerous Mahard sites. Case now closed other than continued monitoring for Mahard's compliance with Consent decree.

Research and meetings with Clean Line and citizens to discover potential environmental and other issues regarding 700 mile wind transmission line project from Oklahoma panhandle to Tennessee

Research and meetings with citizens regarding FEMA flood zone redistricting issues
Represented ODWC for fish kill (37,000 pounds) due to chemical leak from barge in Port of Catoosa. Payment to ODWC for fish killed.

Underground storage tank indemnity fund cases; settlement with Conoco Phillips

Drafted second statement of joint principles and actions agreement with state of Arkansas to conduct an independent stressor response study of phosphorous levels in Oklahoma's Scenic Rivers; represent Oklahoma members of Joint Study Committee; study is complete and final recommendations are set to be made in December 2016. The study supports Oklahoma's contention that its .037 mg/L phosphorous standard in its scenic rivers is supported by best available science. Representation of Environmental Quality Board, the rulemaking body for the Oklahoma Department of Environmental Quality.

Recently entered into a joint MOU and US DOI and the Cherokee Nation to begin a Natural Resource Damage Assessment and Restoration Plan for...

Attachment 4 - CASES IDENTIFIED BY SCOTT PRUITT IN CONFIRMATION HEARING

Case	Case No./Court
EME Homer City Generation v. EPA	No. 12-1182 (U.S.S.C.)
Michigan v. EPA	No. 14-46 (U.S.S.C.)
Murray Energy Corp. v. EPA	Nos. 14-1112, 14-1151 (D.C. Cir.)
Murray Energy Corp. v. EPA	Nos. 15-1385, 15-1392, 15-1490, 15-1491 & 15-1494 (DC Cir.)
Oklahoma v. EPA	Nos. 12-9526, 12-9527 (10th Cir.)
Oklahoma ex rel. Pruitt v. EPA	No. 16-5038 (10th Cir.)
Oklahoma ex rel. Pruitt v. McCarthy	No. 15-cv-369 (N.D. Okla.)
Oklahoma v. EPA	No. 13-cv-00726 (W.D. Okla.)
West Virginia v. EPA	No. 14-1146 (D.C. Cir.)
West Virginia v. EPA	No. 16-1264 (D.C. Cir.)

Attachment

Case	Court/Case No.	Oklahoma Role
Florida et al v. EPA	D.C. Cir.	Party with 12 other states
Grocery Mfrs. of America v. EPA	D.C. Cir. Case No. 15-1267	Party with 16 other states
Michigan, et al., Petitioners v. EPA	2015 WL 309090	Party with 20 other states
Mingo Logan Coal Co. v. EPA	2016 WL 1043192	Petitioner with 18 other states
Murray Energy Corp. et al. v. EPA	D.C. Cir. Case No. 14-1112, 2015 WL 1064058	Intervenor with 11 other states
Murray Energy Corp. v. EPA	C.A.6, 2016 WL 6565997	Party with 30 other states
Murray Energy Corp. v. EPA	D.C. Cir. Case No. 15-1385 (consolidated with 15-1392, 15-1490, 15-1491 & 15-1494)	Party with 4 other states
National Mining Ass'n v. Perciasepe	D.C. Cir. No. 16-1127	Party
Oklahoma ex rel. Pruitt v. EPA	2014 WL 411561	Petitioner
Oklahoma ex rel. Pruitt v. McCarthy	10th Cir. Case No. 15-cv-00381	Party
Oklahoma et al. v. EPA	N.D. Okla Case No. 15-cv-369, 2015 WL 4414384	Plaintiff
Sierra Club v. McCarthy	W.D. Okla. Case No. 13-cv-00726	Plaintiff with 10 other states
West Virginia, et al., Petitioners v. EPA, Respond	SCOTUS Case No. 12-1146	Party with 11 other states
West Virginia et al. v. EPA	C.A.D.C., 2014 WL 6687575	Petitioner with 11 other states
White Stallion Energy Center, LLC, et al., Petition	D.C. Cir. Case No. 15-1364 (consolidated)	Party with 22 other states
Wildearth Guardians v. Bidegain	C.A.D.C., 2012 WL 6762633	Petitioner with 20 other states
Wyoming v. EPA	D.C. Colo. Case No. 13-cv-02748	Intervenor

To: Jackson, Ryan[jackson.ryan@epa.gov]
Cc: Minoli, Kevin[Minoli.Kevin@epa.gov]; Hale, Michelle[hale.michelle@epa.gov]
From: Fugh, Justina
Sent: Mon 3/13/2017 5:45:56 PM
Subject: as requested
Recusal for Scott Pruitt 3-13-17.docx
Attachment 2 - OK cases from QFRs (first set).xlsx

WIF, (b) (5) (DPP)

Hi there,

Here is the revised recusal statement for the Administrator to consider for our meeting on Friday. The document references an attached list of cases, which is the excel spread sheet attached here. That document arises from Mr. Pruitt's answers to the SEPW's questions for the record, and OGC is currently verifying those cases ourselves. At the meeting on Friday, (b) (5) (DPP)

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

-----Original Message-----

From: Jackson, Ryan
Sent: Monday, March 13, 2017 9:49 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>; Minoli, Kevin <Minoli.Kevin@epa.gov>; Hale, Michelle <hale.michelle@epa.gov>; Sydney Hupp <syd.hupp@gmail.com>
Subject: RE:

Yes, please.

-----Original Message-----

From: Fugh, Justina
Sent: Monday, March 13, 2017 9:19 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>; Minoli, Kevin <Minoli.Kevin@epa.gov>; Hale, Michelle <hale.michelle@epa.gov>; Sydney Hupp <syd.hupp@gmail.com>
Subject: RE:

Okay. Just so you know, I am expecting to meet with Ex. 6 - Personal Privacy on Wednesday of this week. I have a revised recusal statement for the Administrator to sign. Shall I send that to you?

-----Original Message-----

From: Jackson, Ryan
Sent: Monday, March 13, 2017 9:13 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>; Minoli, Kevin <Minoli.Kevin@epa.gov>; Hale, Michelle <hale.michelle@epa.gov>; Sydney Hupp <syd.hupp@gmail.com>
Subject:

So I understand our 9:30 will need to be rescheduled for later in the week.

Ryan Jackson
Chief of Staff

U.S. EPA
(202) 564-6999

To: Jackson, Ryan[jackson.ryan@epa.gov]
Cc: Minoli, Kevin[Minoli.Kevin@epa.gov]
From: Fugh, Justina
Sent: Sat 2/25/2017 3:07:51 AM
Subject: follow up to our meeting earlier today
[Draft recusal for review.docx](#) WIF, (b) (5) (DPP)
[P45 Ethics Pledge blank.pdf](#)
[P45 Executive Order.pdf](#)
[Agency gift acceptance authorities.pdf](#)

Hi there,

Thanks for meeting with Kevin and me for your initial ethics briefing. We covered a lot of material with you, Michelle Hale and the Administrator in that one meeting, so here is a summary for our mutual reference.

Draft recusal for the Administrator

We are trying to navigate Mr. Pruitt's various obligations, such as under the federal ethics rules, the Trump ethics pledge and possibly under his rules of professional responsibility. See the attached draft, (b) (5) (DPP)

[REDACTED]

[REDACTED]

Signing the ethics pledge

(b) (5) (DPP) ? I've attached a blank form here, but I could bring one to you next week if you'd rather.

Upcoming partisan event – RAGA dinner

Mr. Pruitt has been invited in his *personal capacity* to attend a dinner hosted by the Republican Attorneys General Association (RAGA). Since the sponsor is a partisan political group as defined by the Hatch Act, he can't attend in his official EPA capacity, but we discussed the fact that he will not be giving an official speech at all. Instead, RAGA wants to honor him personally for his service to that organization over the years.

We discussed the fact that RAGA could mention his new position as part of their send-off, but that he is not attending on behalf of EPA at all. The EPA protective detail can of course escort him and convey him in an EPA vehicle, but I will need to ensure that RAGA reimburses EPA for the actual local travel expense (which should not be much as the event is in DC).

Interactions with Oklahoma

As set forth in the draft recusal, the Administrator has certain ethics obligations with regard to his former employer and former client, the State of Oklahoma. In his official EPA capacity, he cannot interact with the State unless he first checks in with OGC/Ethics. We want to be sure to evaluate whether an activity is permissible or not. We discussed generally that some interactions may well be okay, such as:

- A farewell celebration sponsored by the OK AG's office – it will be possible for Mr. Pruitt to attend a farewell event sponsored by his former office so long as he attends in his personal capacity (similar to the discussion above for RAGA). He can't, however, be drawn into discussions about EPA work, but he can socialize freely with his former colleagues and friends, including legislators, accept any presentation item, partake of the refreshments, and give a speech. He just needs to bear in mind, please, that he is not speaking in his official EPA capacity and can't discuss EPA business.

- The Governor of Oklahoma, Mary Fallin, serves on various groups such as, for example, the Western Governors Association and the National Governors Association. While her membership is necessarily related to the fact that she is a governor, we considered the possibility that she may want to interact with the Administrator on behalf of one of those organizations instead. If so, we explained that OGC/Ethics would consider making a determination that she would not be representing Oklahoma (the Administrator's former employer and former client) but rather the organization, so may well be able to permit that meeting to occur.

EPA lacks agency-specific gift acceptance authority

Attached is a compilation of the gift acceptance authorities for other federal agencies, as of 2014.

That's it (I think). I hope you've enjoyed your first week at EPA!
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

Statutory Gift Acceptance Au

DEPARTMENTS

Department of Agriculture

7 SUC §2 629 - General

Notwithstanding any other law, the Secretary of Agriculture is authorized to accept, on behalf of the United States, any gift, bequest, or devise of real or personal property for the carrying out of the functions of the Department of Agriculture or for the carrying out of any program authorized by the Secretary of Agriculture.

Implementing regulation: Departmental Regulation

7 SUC §62 - National Agricultural Library

The Secretary of Agriculture is authorized to accept, on behalf of the United States, any gift, bequest, or devise of real or personal property for the carrying out of the functions of the National Agricultural Library, if the gift, bequest, or devise is for the carrying out of any program authorized by the Secretary of Agriculture. The Secretary of Agriculture is authorized to accept, on behalf of the United States, any gift, bequest, or devise of real or personal property for the carrying out of any program authorized by the Secretary of Agriculture, if the gift, bequest, or devise is for the carrying out of any program authorized by the Secretary of Agriculture.

16 USC §5 - National Wilderness Preservation System

(a) Acceptance by Secretary of Agriculture of

The Secretary of Agriculture is authorized to accept, on behalf of the United States, any gift, bequest, or devise of real or personal property for the carrying out of the functions of the National Wilderness Preservation System, if the gift, bequest, or devise is for the carrying out of any program authorized by the Secretary of Agriculture. The Secretary of Agriculture is authorized to accept, on behalf of the United States, any gift, bequest, or devise of real or personal property for the carrying out of any program authorized by the Secretary of Agriculture, if the gift, bequest, or devise is for the carrying out of any program authorized by the Secretary of Agriculture.

(b) Authorization to accept private contributions. The Secretary of Agriculture or the Secretary of the Interior may accept private contributions and gifts to be used to further the purposes of the National Wilderness Preservation System.

US Forest Service

16 USC § 471h—Cradle of Forestry

The Secretary of Agriculture is hereby authorized to cooperate with and receive the cooperation of public and private agencies and organizations and individuals in the development, administration, and operation of the Cradle of Forestry in America. The Secretary of Agriculture is authorized to accept contributions and gifts to be used to further the purposes of sections 471f to 471h of this title.

16 USC § 541d—Cascade Head Scenic Research Area

Subject to the provisions of subsection (b) of this section, the Secretary is authorized to acquire lands, waters, or interests therein within the Area by donation, purchase, exchange, or otherwise.

16 USC § 543b—Mono Basin Scenic Area

The Secretary is authorized to acquire all lands and interests therein within the boundary of the Scenic Area by donation, exchange in accordance with sections 543 to 543h of this title or other provisions of law, or purchase with donated or appropriated funds, except that—

(1) any lands or interests therein within the boundary of the Scenic Area which are owned by the State of California or any political subdivision thereof (including the city of Los Angeles) may be acquired only by donation or exchange; and

(2) lands or interests therein within the boundary of the Scenic Area which are not owned by the State of California or any political subdivision thereof (including the city of Los Angeles) may be acquired only with the consent of the owner thereof unless the Secretary determines, after written notice to the owner and after opportunity for comment, that the property is being developed, or proposed to be developed, in a manner which is detrimental to the integrity of the Scenic Area or which is otherwise incompatible with the purposes of sections 543 to 543h of this title.

16 USC § 1643—Forest and Rangeland Research

In implementing this subchapter, the Secretary is authorized to accept, hold, and administer gifts, donations, and bequests of money, real property, or personal property from any source not otherwise prohibited by law and to use such gifts, donations, and bequests to

(1) establish or operate any forest and rangeland research facility within the United States, or

(2) perform any forest and rangeland renewable resource research activity authorized by this subchapter. Such gifts, donations, and bequests, or the proceeds thereof, and money appropriated for these purposes shall be deposited in the Treasury in

a special fund. At the request of the Secretary, the Secretary of the Treasury may invest or reinvest any money in the fund that in the opinion of the Secretary is not needed for current operations. Such investments shall be in public debt securities with maturities suitable for the needs of the fund and bearing interest at prevailing market rates. There are hereby authorized to be expended from such fund such amounts as may be specified in annual appropriation Acts, which shall remain available until expended.

US National Arboretum

20 USC § 195—General

Notwithstanding any other provision of law, the Secretary of Agriculture is authorized to solicit, accept, receive, hold, utilize, and administer on behalf of the United States gifts, bequests, or devises of real and personal property made for the benefit of the National Arboretum or for the carrying out of any of its functions. For the purposes of the Federal income, estate, and gift tax laws, property accepted under the authority of this section shall be considered as a gift, bequest, or devise to the United States. Any gift of money accepted pursuant to the authority granted in this section, or the net proceeds from the liquidation of any property so accepted, or the proceeds of any insurance on any gift property not used for its restoration shall be deposited in the Treasury of the United States for credit to a separate fund and shall be disbursed upon order of the Secretary of Agriculture.

Department of the Army—see also DOD

10 USC § 4356—Gifts to the United States Military Academy

Under regulations prescribed by the Secretary of the Army, the Superintendent of the Academy may (without regard to section 2601 of this title) accept, hold, administer, invest, and spend any gift, devise, or bequest of personal property of a value of \$20,000 or less made to the United States on the condition that such gift, devise, or bequest be used for the benefit of the Academy or any entity thereof. The Secretary may pay or authorize the payment of all reasonable and necessary expenses in connection with the conveyance or transfer of a gift, devise, or bequest under this section.

Department of Commerce

15 USC § 1522—General

The Secretary of Commerce is hereby authorized to accept, hold, administer, and utilize gifts and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Department of Commerce.

Implementing policy: Department Administrative Order 203-9

Department of Defense

10 USC § 2601, as amended by the National Defense Authorization Act for Fiscal Year 2006—General DoD (Service Secretary) Gift Funds

(a) General Authority to Accept Gifts—Subject to subsection (d)(2), the Secretary concerned may accept, hold, administer, and spend any gift, devise, or bequest of real property, personal property, or money made on the condition that the gift, devise, or bequest be used for the benefit, or in connection with, the establishment, operation, or maintenance, of a school, hospital, library, museum, cemetery, or other institution or organization under the jurisdiction of the Secretary.

(b) Additional Authority to Accept Gifts to Benefit Certain Members, Dependents, and Civilian Employees—

(1) Subject to subsection (d)(2), the Secretary concerned may accept, hold, administer, and spend any gift, devise, or bequest of real property, personal property, money or services made on the condition that the gift, devise or bequest be used for the benefit of—

(A) members of the armed forces including members performing full-time National Guard duty under section 502(f) of title 32, who incur a wound, injury, or illness while in the line of duty;

(B) civilian employees in the Department of Defense who incur a wound, injury, or illness while in the line of duty;

(C) dependents of such members or employees; and

(D) survivors of such members or employees who are killed.

(2) The Secretary concerned may not accept a gift of services from a foreign government or international organization under this subsection. A gift of real property, personal property, or money may be accepted under this subsection only if the gift is not designated for a specific individual.

10 USC § 113 - Acceptance of Voluntary Services for Commemorative Programs

The Secretary of Defense may accept from any person voluntary services to be provided in furtherance of the commemorative program. "(2) A person providing voluntary services under this subsection shall be considered to be a Federal employee for purposes of chapter 81 of title 5, United States Code, relating to compensation for work-related injuries. The person shall also be considered a special governmental employee for purposes of standards of conduct

10 USC § 1588 - Acceptance of voluntary services

Voluntary medical services, dental services, nursing services, or other health-care related services; and for museum or a natural resources programs; services to members of the armed forces and the families of such members, including the family support programs, child development and youth services programs, library and education programs, religious programs, housing referral programs, and programs for employment assistance to spouses of service members, and morale, welfare, and recreation programs; funeral honors; legal services voluntarily provided as legal assistance; administration to secondary school students of the test known as the "Armed Services Vocational Aptitude Battery;" voluntary translation or interpretation services; and support programs of a committee of the Employer Support of the Guard and Reserve.

10 USC §2113(j) - Uniformed Services University of the Health Sciences

(1)The Secretary also is authorized—

(A) to enter into contracts with, accept grants from, and make grants to the Henry M. Jackson Foundation for the Advancement of Military Medicine established under section 178 of this title, or any other nonprofit entity, for the purpose of carrying out cooperative enterprises in medical research, medical consultation, and medical education;

(D) to accept, hold, administer, invest, and spend any gift, devise, or bequest of personal property made to the University, including any gift, devise, or bequest for the support of an academic chair, teaching, research, or demonstration project;

(F) to accept the voluntary services of guest scholars and other persons.

10 USC § 2192(b) - Acceptance of Voluntary Services

(1) In furtherance of the authority of the Secretary of Defense under any provision of this chapter or any other provision of law to support educational programs in science, mathematics, engineering, and technology, the Secretary of Defense may, unless otherwise specified in such provision—

(D) accept voluntary services from eligible entities

10 USC § 2605 - Gifts for Defense Dependent Schools

The Secretary of Defense may accept, hold, administer, and spend any gift (including any gift of an interest in real property) made on the condition that it be used in connection with the operation or administration of a defense dependents' school. The Secretary may pay all necessary expenses in connection with the acceptance of a gift under this subsection.

10 USC § 2607—Defense Intelligence College

The Secretary of Defense may accept, hold, administer, and use any gift (including any gift of an interest in real property) made for the purpose of aiding and facilitating the work of the Defense Intelligence College and may pay all necessary expenses in connection with the acceptance of such a gift.

10 USC § 2608 - Contributions to Defense Programs

(a) Acceptance Authority.--The Secretary of Defense may accept from any person, foreign government, or international organization any contribution of money or real or personal property made by such person, foreign government, or international organization for use by the Department of Defense and may accept from any foreign government or international organization any contribution of services made by such foreign government or international organization for use by the Department of Defense.

10 USC § 2610 - Competitions of Excellence: Acceptance of Monetary Awards

(a) Acceptance Authorized.--The Secretary of Defense may accept a monetary award given to the Department of Defense by a nongovernmental entity as a result of the participation of the Department in a competition carried out to recognize excellence or innovation in providing services or administering programs.

30 USC § 9 – Acceptance of Lands from States

Acceptance of lands from States. The Secretary of the Interior is hereby authorized to accept lands, buildings, or other contributions from the several States offering to cooperate in carrying out the purposes of this Act

Department of Education

20 USC § 3481—General

The Secretary has the authority to accept, hold, administer, and utilize gifts, bequests and devises of property, both real and personal, and to accept donations of services, for the purpose of aiding or facilitating the work of the Department.

Department of Health and Human Services

42 USC § 238—Public Health Service

The Secretary may accept unconditional gifts and may, at the recommendation of the Surgeon General, accept conditional gifts to benefit the Public Health Service.

42 USC § 1313(e)(1)— General

The Secretary may accept, on behalf of the United States, gifts (in cash or in kind) for use in carrying out programs to provide temporary assistance to citizens of the United States and to their dependents returned from foreign countries because of the citizen's destitution, illness or because of war, threat of war, invasion, or similar crisis.

42 USC § 3001 note—White House Conference on Aging

The Secretary may accept gifts (in cash or in kind, including voluntary and uncompensated services) to be used in carrying out the duties of the White House Conference on Aging.

42 USC § 3506— Department-wide Authority to Accept Travel Reimbursement Relating to the Performance of Advisory Services

To the extent and under the conditions provided by regulations of the Secretary, officers (including commissioned officers of the Public Health Service) and employees of the Department of Health and Human Services may on and after June 29, 1957, in connection with their attendance at meetings or in performing advisory services concerned with the functions or activities of the Department, be permitted to accept payment, in cash or in kind, from non-Federal agencies, organizations, and individuals, for travel and subsistence expenses, to be retained by them to cover the cost thereof or deposited to the credit of the appropriation from which the cost thereof is paid, as may be provided, in such regulations.

Administration on Aging

Public Law 106-501, § 204

The Assistant Secretary for Aging may accept and use gifts and donations.

Centers for Disease Control and Prevention

42 USC § 280e-11—Authority for Acceptance Of Gifts and Voluntary Services

(1) Authority for accepting funds:

The Director of the Centers for Disease Control and Prevention may accept and utilize, on behalf of the Federal Government, any gift, donation, bequest, or devise of real or personal property from the Foundation for the purpose of aiding or facilitating the work of such Centers. Funds may be accepted and utilized by such Director under the preceding sentence without regard to whether the funds are designated as general-purpose funds or special-purpose funds.

(2) Authority for acceptance of voluntary services:

(A) The Director of the Centers for Disease Control and Prevention may accept, on behalf of the Federal Government, any voluntary services provided to such Centers by the Foundation for the purpose of aiding or facilitating the work of such Centers. In the case of an individual, such Director may accept the services provided under the preceding sentence by the individual for not more than 2 years.

Office of Refugee Resettlement

8 USC § 1522(a)(4)(A)—General

The Director may accept gifts, bequests, or grants of money, property or services to be used in carrying out programs for domestic resettlement of and assistance to refugees.

Food and Drug Administration

21 USC § 379b(c)

The Secretary may accept on behalf of FDA gifts of real or personal property or services to be used in carrying out the responsibility to build a consolidated FDA administrative and laboratory facility.

Public Law 103-330

The Food and Drug Administration may accept donated land in Montgomery and/or Prince Georges Counties, Maryland.

Indian Health Service

25 USC § 451 (pursuant to the Transfer Act, 42 U.S.C § 2001(a))

The Surgeon General may accept real and personal property on behalf of the Indian Health Service to benefit Indian health care.

25 USC §1634—Indian Health Service Facilities

The Secretary may accept renovations and modernizations of Indian Health Service facilities by tribes under certain conditions.

National Institutes of Health

29 USC § 671--National Institute of Occupational Safety and Health

The Director may accept gifts of money, personal or real property made unconditionally to benefit the Institute; may also accept gifts made conditionally, including on condition that the Institute use other Institute funds to supplement the conditional gift.

42 USC § 284(b)(1)(H)—National Institutes of Health

The Secretary, acting through an Institute Director at the National Institutes of Health (NIH), may accept unconditional gifts to benefit that Institute.

42 USC § 285o-4(b) - National Institute on Drug Abuse

Director of the National Institute on Drug Abuse may accept gifts for the benefit of the Medication Development Program.

42 USC § 286(f)--National Library of Medicine

The Secretary may accept gifts to the National Library of Medicine.

Implementing regulations: 42 C.F.R. § 4.4(d)(6).

42 USC § 289f—National Institutes of Health or Other National Research Institutes

The Secretary may accept conditional gifts to NIH or other national research institutes for the acquisition of land, or for the erection, furnishing or maintenance of facilities at the institutes.

42 USC § 290(b)(g)(12)--National Foundation for Biomedical Research

National Foundation for Biomedical Research (a nonprofit corporation established to provide endowments for positions at NIH to conduct biomedical research) may accept any gifts of real or personal property made to the Foundation. Although the Foundation is not part of HHS, the Director of NIH has been designated by statute to serve on the Board of Directors of the Foundation.

Centers for Medicare and Medicaid Services

42 USC § 401(i)—Medicare Trust Funds

The Managing Trustee of the Medicare Trust Funds may accept unconditional money gifts and bequests for benefit of the Trust Funds or any activity financed through the Trust Funds.

Department of Homeland Security

6 USC § 453(b)—Gift Acceptance Permitted only Pursuant to an Authorization Act of Congress

Except as authorized by section 2601 of title 10 and by section 93 of title 14, gifts or donations of services or property of or for the Department may not be accepted, used, or disposed of unless specifically permitted in advance in an appropriations Act and only under the conditions and for the purposes specified in such appropriations Act.

DHS Authorization Act of 2004, Public Law No. 108-90, Section 507, 117 Stat. 1154 (2003)

The Federal Emergency Management Agency 'Bequests and Gifts' account shall be available to the Department of Homeland Security, as authorized by sections 503 and 1517 of the Homeland Security Act of 2002 (6 U.S.C. 313, 557), for the Secretary of Homeland Security to accept, hold, administer and utilize gifts and bequests, including property, to facilitate the work of the Department of Homeland Security: *Provided*, That such fund shall hereafter be known as 'Department of Homeland Security, Gifts and Donations': *Provided further*, That any gift or bequest shall be used in accordance with the terms of that gift or bequest to the greatest extent practicable.

FEMA

42 USC § 5201(b)—General

In furtherance of the purposes of this chapter [disaster relief], the President or his delegate may accept and use bequests, gifts, or donations of service, money, or property, real, personal, or mixed, tangible, or intangible.

42 USC § 5132(d)—Agreements with Commercial Communications Systems for Use of Facilities

The President is authorized to enter into agreements with the officers or agents of any private or commercial communications systems who volunteer the use of their systems on a reimbursable or nonreimbursable basis for the purpose of providing warning to governmental authorities and the civilian population endangered by disasters.

42 USC § 5133(i)—National Predisaster Mitigation Fund

There shall be deposited in the Fund—

- (A) amounts appropriated to carry out this section, which shall remain available until expended; and
- (B) sums available from gifts, bequests, or donations of services or property received by the President for the purpose of predisaster hazard mitigation.

42 USC § 5152(a)—Use and Coordination of Relief Organizations

(a) In providing relief and assistance under this chapter, the President may utilize, with their consent, the personnel and facilities of the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief or disaster assistance organizations, in the distribution of medicine, food, supplies, or other items, and in the restoration, rehabilitation, or reconstruction of community services housing and essential facilities, whenever the President finds that such utilization is necessary.

42 USC §§ 5197—Gifts of Services, and Gifts of Supplies, Equipment, and Facilities

(c) Services of other agency personnel and volunteers

The Director may--

- (1) use the services of Federal agencies and, with the consent of any State or local government, accept and use the services of State and local agencies;
- (2) establish and use such regional and other offices as may be necessary; and
- (3) use such voluntary and uncompensated services by individuals or organizations as may from time to time be needed.

(d) Gifts

Notwithstanding any other provision of law, the Director may accept gifts of supplies, equipment, and facilities and may use or distribute such gifts for emergency preparedness purposes in accordance with the provisions of this subchapter.

US Coast Guard --see also DOD

10 USC § 2601—General authority

a) The Secretary concerned may accept, hold, administer, and spend any gift, devise, or bequest of real or personal property, made on the condition that it be used for the benefit, or in connection with the establishment, operation, or maintenance, of a school, hospital, library, museum, cemetery, or other institution or organization under the jurisdiction of his department. He may pay all necessary expenses in connection with the conveyance or transfer of a gift, devise, or bequest made under this subsection.

Implementing regulation: 33 CFR 17.01-10

14 USC § 93—Equipment and Services

The Commandant may:

(h) design or cause to be designed, cause to be constructed, accept as gift, or otherwise acquire patrol boats and other small craft, equip, operate, maintain, supply, and repair such patrol boats, other small craft, aircraft, and vehicles, and subject to applicable regulations under subtitle I of title 40 and title III of the Federal Property and Administrative Services Act of 1949 (41 USC 251 et seq.) dispose of them;

(i) acquire, accept as gift, maintain, repair, and discontinue aids to navigation, appliances, equipment, and supplies;

(m) accept and utilize, in times of emergency in order to save life or protect property, such voluntary services as may be offered to the Coast Guard.

Federal Law Enforcement Training Center

6 USC § 464a—General

In fiscal year 2004 and thereafter, the Center is authorized to accept and use gifts of property, both real and personal, and to accept services, for authorized purposes.

Transportation Security Administration

49 USC § 114(m)—

The Under Secretary shall have the same authority as is provided to the Administrator of the Federal Aviation Administration under subsections (l) and (m) of section 106.

49 USC § 106(m)—Services, Equipment, Personnel and Facilities

With the consent of appropriate officials, the Administrator may, with or without reimbursement, use or accept the services, equipment, personnel, and facilities of any other Federal agency (as such term is defined in section 551(1) of title 5) and any other public or private entity.

49 USC § 106(l)(5)—Voluntary Services

(5) Voluntary services.--

(A) General rule.--In exercising the authority to accept gifts and voluntary services under section 326 of this title, and without regard to section 1342 of title 31, the Administrator

may not accept voluntary and uncompensated services if such services are used to displace Federal employees employed on a full-time, part-time, or seasonal basis.

Department of Housing and Urban Development

42 USC § 3535(k)—General

The Secretary is authorized to accept and utilize voluntary and uncompensated services and accept, hold, administer, and utilize gifts and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Department.

Department of the Interior

43 USC § 1473a—General

The Secretary is authorized to accept lands, buildings, equipment, other contributions and, before, on, and after November 13, 1991, fees to be deposited in the contributed funds account from public and private sources, and to prosecute projects using such contributions and fees in cooperation with other Federal, State or private agencies.

43 USC § 1473e--Natural Resources Library

In fiscal year 1999 and thereafter, the Secretary may accept donations and bequests of money, services, or other personal property for the management and enhancement of the Department's Natural Resources Library.

16 USC §1135— National Wilderness Preservation System

(b) Authorization to accept private contributions and gifts; The Secretary of Agriculture or the Secretary of the Interior is authorized to accept private contributions and gifts to be used to further the purposes of this chapter.

16 USC § 4602—Take Pride in America

The Secretary may solicit, accept, hold, administer, invest in government securities and use gifts and bequests of money and other personal property to aid or facilitate the purposes of the TPIA program.

Fish and Wildlife Service

16 USC § 742f(b)—General

In furtherance of the purposes of this Act, the Secretary of the Interior is authorized to accept any gifts, devises, or bequests of real and personal property, or proceeds therefrom, or interests therein, for the benefit of the United States Fish and Wildlife Service, in performing its activities and services. Such acceptance may be subject to the terms of any restrictive or affirmative covenant, or condition of servitude, if such terms are deemed by the Secretary to be in accordance with law and compatible with the purpose for which acceptance is sought.

National Park Service

16 USC § 6—National Park and Monument System

The Secretary of the Interior in his administration of the National Park Service is authorized, in his discretion, to accept patented lands, rights-of-way over patented lands or other lands, buildings, or other property within the various national parks and national monuments, and moneys which may be donated for the purposes of the national park and monument system.

16 USC § 18f(b)—Museums

...[T]o increase the public benefits from museums established within the individual areas administered by the Secretary of the Interior through the National Park Service...[t]he Secretary of the Interior, ...may perform the following functions in such manner as he shall consider to be in the public interest:

(a) Donations and bequests

Accept donations and bequests of money or other personal property, and hold, use, expend, and administer the same for purposes of this section and sections 18f-2 and 18f-3 of this title.

Bureau of Indian Affairs

25 USC § 451—General

The Secretary of the Interior may accept donations of funds or other property for the advancement of the Indian race, and he may use the donated property in accordance with the terms of the donation in furtherance of any program authorized by other provision of law for the benefit of Indians. An annual report shall be made to the Congress on

donations received and allocations made from such donations. This report shall include administrative costs and other pertinent data.

25 USC § 465—Lands, Water Rights, Surface Rights

The Secretary of the Interior is authorized, in his discretion, to acquire, through purchase, relinquishment, gift, exchange, or assignment, any interest in lands, water rights, or surface rights to lands, within or without existing reservations, including trust or otherwise restricted allotments, whether the allottee be living or deceased, for the purpose of providing land for Indians.

25 USC § 487—Spokane Indian Reservation

The Secretary of the Interior is authorized in his discretion to:

(1) Purchase for the Spokane Tribe of Indians with any funds of such tribe and to otherwise acquire by gift, exchange, or relinquishment any lands or interest in lands or improvements thereon within the Spokane Indian Reservation.

25 USC § 500c—Alaskan natives

The Secretary of the Interior is hereby authorized to receive, in the name of the United States, for and on behalf of said natives of Alaska, gifts made for the purposes of this subchapter.

25 USC § 501—Agricultural and Grazing Lands for Indians

The Secretary of the Interior is authorized, in his discretion, to acquire by purchase, relinquishment, gift, exchange, or assignment, any interest in lands, water rights, or surface rights to lands, within or without existing Indian reservations, including trust or otherwise restricted lands now in Indian ownership: Provided, That such lands shall be agricultural and grazing lands of good character and quality in proportion to the respective needs of the particular Indian or Indians for whom such purchases are made.

25 USC § 608—Yakima Indian Reservation

The Secretary of the Interior is authorized in his discretion, to—

(1) purchase for the Yakima Tribes, with any funds of such tribes, and to otherwise acquire by gift, exchange, or relinquishment, any lands or interest in lands or improvements thereon within the Yakima Indian Reservation or within the area ceded to the United States by the Treaty of June 9, 1855.

25 USC § 2012(1) – School Board

The Secretary may, subject to the approval of the local school board concerned, accept voluntary services on behalf of Bureau schools

Bureau of Land Management

43 USC § 1737(c)— General

The Secretary may accept contributions or donations of money, services, and property, real, personal, or mixed, for the management, protection, development, acquisition, and conveying of the public lands, including the acquisition of rights-of-way for such purposes. He may accept contributions for cadastral surveying performed on federally controlled or intermingled lands.

US Geological Survey

43 USC § 36a—Acquisition of Scientific or Technical Books

The Director of the United States Geological Survey, under the general supervision of the Secretary of the Interior, is authorized to acquire for the United States, by gift or devise, scientific or technical books, manuscripts, maps, and related materials, and to deposit the same in the library of the United States Geological Survey for reference and use as authorized by law.

43 USC § 36b—Acquisition of Lands or Interests Therein

The Secretary of the Interior may, on behalf of the United States and for use by the United States Geological Survey in gaging streams and underground water resources, acquire lands by donation or when funds have been appropriated by Congress by purchase or condemnation, but not in excess of ten acres for any one stream gaging station or observation well site. For the same purpose the Secretary of the Interior may obtain easements, licenses, rights-of-way, and leases limited to run for such a period of time or term of years as may be required for the effective performance of the function of gaging streams and underground water resources.

43 USC § 36c—Acceptance of Contributions from Public and Private Sources

In fiscal year 1987 and thereafter the United States Geological Survey is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private.

Minerals Management Services

43 USC § 1473—General

In fiscal year 1987 and thereafter, the Minerals Management Service is authorized to accept land, buildings, equipment and other contributions, from public and private sources.

Department of Justice

28 USC § 524(d)—General

The Attorney General may accept, hold, administer, and use gifts, devises, and bequests of any property or services for the purpose of aiding or facilitating the work of the Department of Justice.

Implementing policy directive: DOJ 2400.2

Department of Labor

29 USC § 568—General

The Secretary of Labor is authorized to accept, in the name of the Department of Labor, and employ or dispose of in furtherance of authorized activities of the Department of Labor..., any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise.

29 USC § 2939(b)—Workforce Investment Act

The Secretary is authorized, in carrying out this chapter, to accept, purchase, or lease in the name of the Department of Labor, and employ or dispose of in furtherance of the purposes of this chapter, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise, and to accept voluntary and uncompensated services...

29 USC § 2898(f)—Workforce Investment Act/Job Corps

The Secretary may accept on behalf of the Job Corps or individual Job Corps centers charitable donations of cash or other assistance, including equipment and materials, if such donations are available for appropriate use for the purposes set forth in this subchapter.

30 USC § 962—Mine Safety and Health Act

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private; the Mine Safety and Health Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and safety associations; and any funds available to the department may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of a major disaster.

Department of the Navy—See also DOD

10 USC § 6973—Gifts to the United States Naval Academy

(a) The Secretary of the Navy may accept, hold, administer, and spend any gift or bequest of personal property, and may accept, hold, and administer any loan of personal property other than money, that is made on the condition that it be used for the benefit of, or for use in connection with, the Naval Academy or the Naval Academy Museum, its collection, or its services. Gifts and bequests of money and the proceeds from the sales of property received as gifts shall be deposited in the Treasury in the fund called "United States Naval Academy Gift and Museum Fund". The Secretary may disburse funds deposited under this subsection for the benefit or use of the Naval Academy (including the Naval Academy Museum) subject to the terms of the gift or bequest.

10 USC § 7221—Gifts to Vessels

The Secretary of the Navy may accept and care for such gifts of silver, colors, books, or other articles of equipment or furniture as, in accordance with custom, are made to vessels of the Navy. Necessary expenses incident to the care of gifts that are accepted shall be paid from the appropriation for the maintenance and operation of vessels.

10 USC § 7220—Gifts for Welfare of Enlisted Members

The Secretary of the Navy may accept gifts for use in providing recreation, amusement, and contentment for enlisted members of the naval service. The fund "Ships' Stores Profits, Navy" shall be credited with these gifts.

Department of State

22 USC § 2697—General

The Secretary of State may accept on behalf of the United States gifts made unconditionally by will or otherwise for the benefit of the Department of State (including the Foreign Service) or for the carrying out of any of its functions. Conditional gifts may be so accepted at the discretion of the Secretary, and the principal of and income from any such conditional gift shall be held, invested, reinvested, and used in accordance with its conditions, except that no gift shall be accepted which is conditioned upon any expenditure which will not be met by the gift or the income from the gift unless such expenditure has been approved by Act of Congress.

22 USC § 300—Foreign Service Buildings

(a) The Secretary of State is authorized—

(2) to receive payment in whatever form, or in kind, he determines to be in the interest of the United States for damage to or destruction of property acquired for use of diplomatic and consular establishments abroad, and the contents of such buildings, and

(3) to accept on behalf of the United States gifts of property or services of any kind made by will or otherwise for the purposes of this chapter.

Department of Transportation

49 USC § 326—General

The Secretary of Transportation may accept and use conditional or unconditional gifts of property for the Department of Transportation. The Secretary may accept a gift of services in carrying out aviation duties and powers.

Department of the Treasury

31 USC § 321(d)—General

Unconditional gifts and bequests that will aid and facilitate the work of the Department may be accepted. Gifts or bequests offered subject to conditions may be accepted if they do not unduly restrict or interfere with the work of the Department. Acceptance and use of the gifts and bequests must be approved by the Assistant Secretary for management and CFO or designee.

Implementing policy directive: Treasury Directive 61-09

Department of Veterans Affairs

38 USC § 8301-- General

The Secretary may accept devises, bequests, and gifts, made in any manner, with respect to which the testator or donor shall have indicated the intention that such property shall be for the benefit of groups of persons formerly in the active military, naval, or air service who by virtue of such service alone, or disability suffered therein or therefrom, are or shall be patients or members of any one or more hospitals or homes operated by the United States Government, or has indicated the intention that such property shall be for the benefit of any such hospital or home, or shall be paid or delivered to any official, as such, or any agency in administrative control thereof. The Secretary may also accept, for use in carrying out all laws administered by the Secretary, gifts, devises, and bequests which will enhance the Secretary's ability to provide services or benefits.

38 USC § 8103--Authority to Construct and Alter, and to Acquire Sites for Medical Facilities

(a) Subject to section 8104 of this title [38 USCS § 8104], the Secretary—

(1) may construct or alter any medical facility and may acquire, purchase, lease, condemnation, donation, exchange, or otherwise, such land or interests in land as the Secretary considers necessary for use as the site for such construction or alteration;

(2) may acquire, by purchase, lease, condemnation, donation, exchange, or otherwise, any facility (including the site of such facility) that the Secretary considers necessary for use as a medical facility

38 USC § 8104(e)—Gifts in Connection with Medical Facility Acquisitions

(e) The Secretary may accept gifts or donations for any of the purposes of this subchapter [38 USC §§ 8101 et seq.].

Note: (a)(1) The purpose of this subsection is to enable Congress to ensure the equitable distribution of medical facilities throughout the United States, ...

38 USC § 7364—Gifts for VA Research

(a) A corporation established under this subchapter [38 USCS §§ 7361 et seq.] may—

(1) accept gifts and grants from, and enter into contracts with, individuals and public and private entities solely to carry out the purposes of this subchapter.

38 USC § 2407—Authority to Accept and Maintain Suitable Memorials

Subject to such restrictions as the Secretary may prescribe, the Secretary may accept gifts, devises, or bequests from legitimate societies and organizations or reputable individuals, made in any manner, which are made for the purpose of beautifying national

cemeteries, or are determined to be beneficial to such cemetery. The Secretary may make land available for this purpose, and may furnish such care and maintenance as the Secretary deems necessary.

38 USC § 2406—Acquisition of Lands

As additional lands are needed for national cemeteries, they may be acquired by the Secretary by purchase, gift (including donations from States or political subdivisions thereof), condemnation, transfer from other Federal agencies, exchange, or otherwise, as the Secretary determines to be in the best interest of the United States.

38 USC § 513—Contracts and Personal Services

The Secretary may, for purposes of all laws administered by the Department, accept uncompensated services, and enter into contracts or agreements with private or public agencies or persons (including contracts for services of translators without regard to any other law), for such necessary services (including personal services) as the Secretary may consider practicable. The Secretary may also enter into contracts or agreements with private concerns or public agencies for the hiring of passenger motor vehicles or aircraft for official travel whenever, in the Secretary's judgment, such arrangements are in the interest of efficiency or economy.

AGENCIES

Access Board

29 USC § 792(i)(2)(A)—General

The Access Board may accept, hold, administer, and utilize gifts, devises, and bequests of property, both real and personal, for the purpose of aiding and facilitating the functions of the Access Board under paragraphs (2) and (4) of subsection (b) of this section.

Advisory Council on Historic Preservation

16 USC § 470m(g)—General

The Council may obtain by purchase, rental, donation, or otherwise, such additional property facilities, and services as may be needed to carry out its duties and may also receive donations of moneys for such purpose, and the Executive Director is authorized, in his discretion, to accept, hold, use, expend, and administer the same for the purposes of this subchapter.

16 USC § 470h-1—National Register of Historic Places

The Secretary [of the Interior] may accept the donation of funds which may be expended by him for projects to acquire, restore, preserve, or recover data from any district, building, structure, site, or object which is listed on the National Register of Historic Places established pursuant to section 470a of this title, so long as the project is owned by a State, any unit of local government, or any nonprofit entity.

African Development Foundation

22 USC § 290h-4(a)(9)—General

The Foundation may accept gifts or donations of services or of property (real, personal, or mixed), tangible or intangible, in furtherance of the purposes of this subchapter.

Implementing policy: ADF Manual Section 312

Agency for International Development

Section 635(d) of the Foreign Assistance Act

The President may accept and use in furtherance of the purposes of this Act, money, funds, property, and services of any kind made available by gift, devise, bequest, grant, or otherwise for such purpose.

NOTE: Although this authority is broad in scope, USAID's gift authority has not been used for domestic disasters.

Implementing policy: Section 628 of the USAID's Automated Directive System (ADS).

Armed Forces Retirement Home

24 USC §422 – Voluntary Services

The Chief Operating Officer or the Director of a facility of an Armed Forces Retirement Home may accept from any person voluntary personal services or gratuitous services.

Barry M. Goldwater Scholarship and Excellence in Education Foundation

20 USC § 4710(a)(4)—General

The Foundation may receive money and other property donated, bequeathed, or devised, without condition or restriction other than it be used for the purposes of the Foundation, and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions.

Christopher Columbus Fellowship Foundation

20 USC § 5708(a)(4)

The Foundation may receive money and other property donated, bequeathed, or devised, without condition or restriction other than it be used for the purposes of the Foundation; and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions

20 USC § 5708(a)(5)

The Foundation may accept and utilize the services of voluntary and uncompensated personnel.

Corporation for National and Community Service

42 USC §12651g(a)(2)

The Corporation may solicit, accept, hold, administer, use, and dispose of, in furtherance of the purposes of the national service laws, donations of any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise.

Executive Office of the President

Council on Environmental Quality

42 USC §4346a—Travel Reimbursement by Private Organizations and Federal, State, and Local Governments

The Council may accept reimbursements from any private nonprofit organization or from any department, agency, or instrumentality of the Federal Government, any State, or local government, for the reasonable travel expenses incurred by an officer or employee of the Council in connection with his attendance at any conference, seminar, or similar meeting conducted for the benefit of the Council.

Office of Administration

P.L. 100-461, Sec. 590—Dwight D. Eisenhower Executive Office Building

The Director of the Office of Administration is authorized to—
(1) accept, hold, administer, utilize and sell gifts and bequests of property, both real and personal, and loans of personal property other than money; and
(2) accept and utilize voluntary and uncompensated services; for the purpose of aiding, benefiting, or facilitating the work of preservation, restoration, renovation, rehabilitation, or historic furnishing of the Dwight D. Eisenhower Executive Office Building and the grounds thereof.

Office of National Drug Control Policy

21 USC §1702(d)—General

There is established in the Treasury of the United States a fund for the receipt of gifts, both real and personal, for the purpose of aiding or facilitating the work of the Office. The Office may accept, hold, and administer contributions to the Fund.

Office of the U.S. Trade Representative

19 USC 2171(d)(6)—Voluntary Services

The U.S. Trade Representative may accept voluntary and uncompensated services, notwithstanding the provisions of section 1342 of title 31.

Federal Communications Commission

47 USC §154—General

The FCC is authorized to accept, hold, administer, and use unconditional gifts, donations, and bequests of real, personal and other property (including voluntary and uncompensated services).

Implementing regulation: 47 CFR § 1.3000

Federal Housing Finance Board

1422 USC §§ 1422b(a)(3) and (c)—General

It is the Finance Board's position that, as a matter of law, the Federal Home Loan Bank Act (Bank Act) provides authority for the agency to accept and use a gift from a non-federal source. A statutory provision specifically addressing gift acceptance is not necessary to authorize the Finance Board to accept and use a gift from a non-federal source because the agency's receipts are neither government funds nor appropriated monies, and its expenditures are not limited by an appropriation act. Since acceptance and use by the Finance Board of a gift from a non-federal source is lawful, any limit that may be imposed on the exercise of that authority is a matter of agency policy.

Federal Mediation and Conciliation Service

Public Law 107-116—General

That the Director of the Service is authorized to accept and use on behalf of the United States gifts of services and real, personal, or other property in the aid of any projects or functions within the Director's jurisdiction.

Federal Reserve System

12 USC § 244—General

The Board shall determine and prescribe the manner in which its obligations shall be incurred and its disbursements and expenses allowed and paid, and may leave on deposit in the Federal Reserve banks the proceeds of assessments levied upon them to defray its estimated expenses and the salaries of its members and employees, whose employment, compensation, leave, and expenses shall be governed solely by the provisions of this chapter and rules and regulations of the Board not inconsistent therewith; and funds derived from such assessments shall not be construed to be Government funds or appropriated moneys.

General Services Administration

40 USC § 3175—Property

The Administrator of General Services, and the United States Postal Service where that office is concerned, may accept on behalf of the Federal Government unconditional gifts of property in aid of any project or function within their respective jurisdictions.

Institute of Museum Services

20 USC § 9106—General

The Institute is authorized to solicit, accept, receive, and invest in the name of the United States, gifts, bequests, or devises of money and other property or services and to use such property or services in furtherance of the functions of the Institute.

International Trade Commission

19 USC §1331(a)(1)(B)—General

The chairman of the Commission may accept, hold, administer, and utilize gifts, devises, and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Commission.

James Madison Memorial Fellowship Foundation

20 USC § 4513(a)(4)—General

The Foundation may receive money and other property donated, bequeathed, or devised, without condition or restriction other than it be used for the purposes of the Foundation; and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions.

20 USC § 4513(a)(5)—Voluntary services

The Foundation may accept and utilize the services of voluntary and noncompensated personnel.

Millennium Challenge Corporation

22 USC § 7713(a)(6)—General

The Corporation may accept cash gifts or donations of services or of property (real, personal, or mixed), tangible or intangible, for the purpose of carrying out the provisions of this title.

Morris K. Udall Foundation

20 USC §§ 5608(a)(4) and (5)—General

The Foundation is authorized to—

(a)(4) accept, hold, administer, and utilize gifts, both real and personal, for the purpose of aiding or facilitating the work of the Foundation;

(5) accept and utilize the services of voluntary and noncompensated personnel...

National Aeronautics and Space Administration

42 USC § 2473(c)(4)—General

The Administrator may accept unconditional gifts or donations of services, money or property, real, personal, or mixed, tangible or intangible.

National Archives and Records Administration

44 USC § 2112(g)(1)—Presidential Libraries

Authorizes the Archivist to solicit and accept gifts and bequests of money and other property on behalf of the Presidential libraries, and reserves any monies so raised and deposited in the National Archives Trust Fund for the benefit and use of the library that raised the money.

44 USC §2305—National Archives Trust Fund

Authorizes the National Archives Trust Fund Board, of which the Archivist is the Chairman, to solicit and accept gifts of money, securities, or other personal property in connection with the national archival and records activities of NARA.

National Credit Union Administration

12 USC § 1772a—General

The Board is authorized to accept gifts of money made unconditionally by will or otherwise for the carrying out of any of the functions under this chapter. A conditional gift of money made by will or otherwise for such purposes may be accepted and used in accordance with its conditions, but no such gift shall be accepted which is conditioned upon any expenditure not to be met there from or from income thereof unless the Board determines that supplementation of such gift from the fees it may expend pursuant to sections 1755 and 1756 of this title or from any funds appropriated pursuant to section 1766(f)(2)(C) of this title for the purpose of making such expenditure will not adversely affect the sound administration of this chapter.

National Endowment for the Arts/National Endowment for the Humanities

20 USC §§ 959(a)(2)and (5)—General

(a)(2) in the discretion of the Chairperson of an Endowment, after receiving the recommendation of the National Council of that Endowment, to receive money and other property donated, bequeathed, or devised to that Endowment with or without a condition or restriction, including a condition that the Chairperson use other funds of that Endowment for the purposes of the gift, except that a Chairperson may receive a gift without a recommendation from the Council to provide support for any application or project which can be approved without Council recommendation under the provisions of sections 955(f) and 957(f) of this title, and may receive a gift of \$15,000, or less, without Council recommendation in the event the Council fails to provide such recommendation within a reasonable period of time, and to use, sell, or otherwise dispose of such property for the purpose of carrying out sections 954(c) and 956(c) of this title;

(5) to accept and utilize the services of voluntary and uncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5 for persons in the Government service employed without compensation

National Science Foundation

42 USC §§ 1870(e) and (f)—General

The Foundation is authorized:

(e) to acquire by purchase, lease, loan, gift, or condemnation, and to hold and dispose of by grant, sale, lease, or loan, real and personal property of all kinds necessary for, or resulting from, the exercise of authority granted by this chapter;

(f) to receive and use funds donated by others, if such funds are donated without restriction other than that they be used in furtherance of one or more of the general purposes of the Foundation.

Office of Government Ethics

5 USC Appendix 403(b)—General

The Director is authorized to accept and utilize on behalf of the United States, any gift, donation, bequest, or devise of money, use of facilities, personal property, or services for the purpose of aiding or facilitating the work of the Office of Government Ethics.

Implementing regulations: 5 CFR § 2601

Office of Personnel Management

Public Law 105-61, Section 505—Federal Executive Institute and Management Development Centers

The Office of Personnel Management may...accept donations of supplies, services, land, and equipment for the Federal Executive Institute and Management Development Centers to assist in enhancing the quality of Federal management.

Overseas Private Investment Corporation

22 USC § 2395(d)—General

The President may accept and use in furtherance of the purposes of this chapter, money, funds, property, and services of any kind made available by gift, devise, bequest, grant, or otherwise for such purpose.

Peace Corps

22 USC §2509(a)(4)—General

The Director may accept voluntary services notwithstanding the provisions of section 1342 of title 31, and any money or property (real, personal or mixed, tangible or intangible) received by gift, devise, bequest, or otherwise.

Pension Benefit Guaranty Corporation

29 USC §1302(b)(5)—General

The Corporation has the power to lease, purchase, accept gifts or donations of, or otherwise to acquire, to own, hold, improve, use, or otherwise deal in or with, and to sell, convey, mortgage, pledge, lease, exchange, or otherwise dispose of, any property, real, personal, or mixed, or any interest therein wherever situated.

The Presidio Trust

16 USC §460bb, Appendix Section 104(e)—General

The Trust may solicit and accept donations of funds, property, supplies, or services from individuals, foundations, corporations, and other private or public entities for the purpose of carrying out its duties. The Trust is encouraged to maintain a liaison with the Golden Gate National Park Association.

Railroad Retirement Board

45 USC § 231f(e)—Railroad Retirement Account

The Board is authorized to accept on behalf of the United States money gifts and bequests made unconditionally to the Railroad Retirement Account, to the Railroad Retirement Supplemental Account, or to the Railroad Unemployment Insurance Account,

or to the Board, or any member, officer, or employee thereof, for the benefit of such accounts or any activity financed through such accounts. Any such gift accepted pursuant to the authority granted in this subsection shall be deposited in the specific account designated by the donor or, if the donor has made no such specific designation, in the Railroad Retirement Account.

Securities and Exchange Commission

15 USC § 78d(c)--Acceptance of Travel Support for Commission Activities from Non-Federal Sources

Notwithstanding any other provision of law, in accordance with regulations which the Commission shall prescribe to prevent conflicts of interest, the Commission may accept payment and reimbursement, in cash or in kind, from non-Federal agencies, organizations, and individuals for travel, subsistence, and other necessary expenses incurred by Commission members and employees in attending meetings and conferences concerning the functions or activities of the Commission. Any payment or reimbursement accepted shall be credited to the appropriated funds of the Commission. The amount of travel, subsistence, and other necessary expenses for members and employees paid or reimbursed under this subsection may exceed per diem amounts established in official travel regulations, but the Commission may include in its regulations under this subsection a limitation on such amounts.

15 USC § 78d(f)--Reimbursement of Expenses for Assisting Foreign Securities Authorities

Notwithstanding any other provision of law, the Commission may accept payment and reimbursement, in cash or in kind, from a foreign securities authority, or made on behalf of such authority, for necessary expenses incurred by the Commission, its members, and employees in carrying out any investigation pursuant to section 78u(a)(2) of this title or in providing any other assistance to a foreign securities authority. Any payment or reimbursement accepted shall be considered a reimbursement to the appropriated funds of the Commission.

Trade and Development Agency

22 USC § 2395(d)—General

The President may accept and use in furtherance of the purposes of this chapter, money, funds, property, and services of any kind made available by gift, devise, bequest, grant, or otherwise for such purpose.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Washington, D.C. 20460

As a condition, and in consideration, of my employment in the United States Government in an appointee position invested with the public trust, I commit myself to the following obligations, which I understand are binding on me and are enforceable under law:

1. I will not, within 5 years after the termination of my employment as an appointee in any executive agency in which I am appointed to serve, engage in lobbying activities with respect to that agency.
2. If, upon my departure from the Government, I am covered by the post-employment restrictions on communicating with employees of my former executive agency set forth in section 207(c) of title 18, United States Code, I agree that I will abide by those restrictions.
3. In addition to abiding by the limitations of paragraphs 1 and 2, I also agree, upon leaving Government service, not to engage in lobbying activities with respect to any covered executive branch official or non-career Senior Executive Service appointee for the remainder of the Administration.
4. I will not, at any time after the termination of my employment in the United States Government, engage in any activity on behalf of any foreign government or foreign political party which, were it undertaken on January 20, 2017, would require me to register under the Foreign Agents Registration Act of 1938, as amended.
5. I will not accept gifts from registered lobbyists or lobbying organizations for the duration of my service as an appointee.
6. I will not for a period of 2 years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts.
7. If I was a registered lobbyist within the 2 years before the date of my appointment, in addition to abiding by the limitations of paragraph 6, I will not for a period of 2 years after the date of my appointment participate in any particular matter on which I lobbied within the 2 years before the date of my appointment or participate in the specific issue area in which that particular matter falls.
8. I agree that any hiring or other employment decisions I make will be based on the candidate's qualifications, competence, and experience.

9. I acknowledge that the Executive Order entitled 'Ethics Commitments by Executive Branch Appointees,' issued by the President on January 28, 2017, which I have read before signing this document, defines certain terms applicable to the foregoing obligations and sets forth the methods for enforcing them. I expressly accept the provisions of that Executive Order as a part of this agreement and as binding on me. I understand that the obligations of this pledge are in addition to any statutory or other legal restrictions applicable to me by virtue of Government service.

Printed Name: _____

Signature: _____

Date: _____

The White House
Office of the Press Secretary
For Immediate Release
January 28, 2017

Executive Order: ETHICS COMMITMENTS BY EXECUTIVE BRANCH APPOINTEES

EXECUTIVE ORDER

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ETHICS COMMITMENTS BY EXECUTIVE BRANCH APPOINTEES

By the authority vested in me as President of the United States by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, and sections 3301 and 7301 of title 5, United States Code, it is hereby ordered as follows:

Section 1. Ethics Pledge. Every appointee in every executive agency appointed on or after January 20, 2017, shall sign, and upon signing shall be contractually committed to, the following pledge upon becoming an appointee:

"As a condition, and in consideration, of my employment in the United States Government in an appointee position invested with the public trust, I commit myself to the following obligations, which I understand are binding on me and are enforceable under law:

"1. I will not, within 5 years after the termination of my employment as an appointee in any executive agency in which I am appointed to serve, engage in lobbying activities with respect to that agency.

"2. If, upon my departure from the Government, I am covered by the post-employment restrictions on communicating with employees of my former executive agency set forth in section 207(c) of title 18, United States Code, I agree that I will abide by those restrictions.

"3. In addition to abiding by the limitations of paragraphs 1 and 2, I also agree, upon leaving Government service, not to engage in lobbying activities with respect to any covered executive branch official or non-career Senior Executive Service appointee for the remainder of the Administration.

"4. I will not, at any time after the termination of my employment in the United States Government, engage in any activity on behalf of any foreign government or foreign political

party which, were it undertaken on January 20, 2017, would require me to register under the Foreign Agents Registration Act of 1938, as amended.

"5. I will not accept gifts from registered lobbyists or lobbying organizations for the duration of my service as an appointee.

"6. I will not for a period of 2 years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts.

"7. If I was a registered lobbyist within the 2 years before the date of my appointment, in addition to abiding by the limitations of paragraph 6, I will not for a period of 2 years after the date of my appointment participate in any particular matter on which I lobbied within the 2 years before the date of my appointment or participate in the specific issue area in which that particular matter falls.

"8. I agree that any hiring or other employment decisions I make will be based on the candidate's qualifications, competence, and experience.

"9. I acknowledge that the Executive Order entitled 'Ethics Commitments by Executive Branch Appointees,' issued by the President on January 28, 2017, which I have read before signing this document, defines certain terms applicable to the foregoing obligations and sets forth the methods for enforcing them. I expressly accept the provisions of that Executive Order as a part of this agreement and as binding on me. I understand that the obligations of this pledge are in addition to any statutory or other legal restrictions applicable to me by virtue of Government service."

Sec. 2. Definitions. As used herein and in the pledge set forth in section 1 of this order:

(a) "Administration" means all terms of office of the incumbent President serving at the time of the appointment of an appointee covered by this order.

(b) "Appointee" means every full-time, non-career Presidential or Vice-Presidential appointee, non-career appointee in the Senior Executive Service (or other SES-type system), and appointee to a position that has been excepted from the competitive service by reason of being of a confidential or policymaking character (Schedule C and other positions excepted under comparable criteria) in an executive agency. It does not include any person appointed as a member of the Senior Foreign Service or solely as a uniformed service commissioned officer.

(c) "Covered executive branch official" shall have the definition set forth in the Lobbying Disclosure Act.

(d) "Directly and substantially related to my former employer or former clients" shall mean matters in which the appointee's former employer or a former client is a party or represents a party.

(e) "Executive agency" and "agency" mean "executive agency" as defined in section 105 of title 5, United States Code, except that the terms shall include the Executive Office of the President, the United States Postal Service, and the Postal Regulatory Commission, and excludes the Government Accountability Office. As used in paragraph 1 of the pledge, "executive agency" means the entire agency in which the appointee is appointed to serve, except that:

(1) with respect to those appointees to whom such designations are applicable under section 207(h) of title 18, United States Code, the term means an agency or bureau designated by the Director of the Office of Government Ethics under section 207(h) as a separate department or agency at the time the appointee ceased to serve in that department or agency; and

(2) an appointee who is detailed from one executive agency to another for more than 60 days in any calendar year shall be deemed to be an officer or employee of both agencies during the period such person is detailed.

(f) "Foreign Agents Registration Act of 1938, as amended" means sections 611 through 621 of title 22, United States Code.

(g) "Foreign government" means the "government of a foreign country," as defined in section 1(e) of the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. 611(e).

(h) "Foreign political party" has the same meaning as that term has in section 1(f) of the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. 611(f).

(i) "Former client" is any person for whom the appointee served personally as agent, attorney, or consultant within the 2 years prior to the date of his or her appointment, but excluding instances where the service provided was limited to a speech or similar appearance. It does not include clients of the appointee's former employer to whom the appointee did not personally provide services.

(j) "Former employer" is any person for whom the appointee has within the 2 years prior to the date of his or her appointment served as an employee, officer, director, trustee, or general partner, except that "former employer" does not include any executive agency or other entity of the Federal Government, State or local government, the District of Columbia, Native American tribe, or any United States territory or possession.

(k) "Gift"

(1) shall have the definition set forth in section 2635.203(b) of title 5, Code of Federal Regulations;

(2) shall include gifts that are solicited or accepted indirectly as defined at section 2635.203(f) of title 5, Code of Federal Regulations; and

(3) shall exclude those items excluded by sections 2635.204(b), (c), (e)(1) & (3), (j), (k), and (l) of title 5, Code of Federal Regulations.

- (l) "Government official" means any employee of the executive branch.
- (m) "Lobbied" shall mean to have acted as a registered lobbyist.
- (n) "Lobbying activities" has the same meaning as that term has in the Lobbying Disclosure Act, except that the term does not include communicating or appearing with regard to: a judicial proceeding; a criminal or civil law enforcement inquiry, investigation, or proceeding; or any agency process for rulemaking, adjudication, or licensing, as defined in and governed by the Administrative Procedure Act, as amended, 5 U.S.C. 551 *et seq.*
- (o) "Lobbying Disclosure Act" means sections 1601 *et seq.* of title 2, United States Code.
- (p) "Lobbyist" shall have the definition set forth in the Lobbying Disclosure Act.
- (q) "On behalf of another" means on behalf of a person or entity other than the individual signing the pledge or his or her spouse, child, or parent.
- (r) "Particular matter" shall have the same meaning as set forth in section 207 of title 28, United States Code, and section 2635.402(b)(3) of title 5, Code of Federal Regulations.
- (s) "Particular matter involving specific parties" shall have the same meaning as set forth in section 2641.201(h) of title 5, Code of Federal Regulations, except that it shall also include any meeting or other communication relating to the performance of one's official duties with a former employer or former client, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties.
- (t) "Participate" means to participate personally and substantially.
- (u) "Pledge" means the ethics pledge set forth in section 1 of this order.
- (v) "Post-employment restrictions" shall include the provisions and exceptions in section 207(c) of title 18, United States Code, and the implementing regulations.
- (w) "Registered lobbyist or lobbying organization" shall mean a lobbyist or an organization filing a registration pursuant to section 1603(a) of title 2, United States Code, and in the case of an organization filing such a registration, "registered lobbyist" shall include each of the lobbyists identified therein.
- (x) Terms that are used herein and in the pledge, and also used in section 207 of title 18, United States Code, shall be given the same meaning as they have in section 207 and any implementing regulations issued or to be issued by the Office of Government Ethics, except to the extent those terms are otherwise defined in this order.
- (y) All references to provisions of law and regulations shall refer to such provisions as in effect on January 20, 2017.

Sec. 3. Waiver. (a) The President or his designee may grant to any person a waiver of any restrictions contained in the pledge signed by such person.

(b) A waiver shall take effect when the certification is signed by the President or his designee.

(c) A copy of the waiver certification shall be furnished to the person covered by the waiver and provided to the head of the agency in which that person is or was appointed to serve.

Sec. 4. Administration. (a) The head of every executive agency shall establish for that agency such rules or procedures (conforming as nearly as practicable to the agency's general ethics rules and procedures, including those relating to designated agency ethics officers) as are necessary or appropriate:

(1) to ensure that every appointee in the agency signs the pledge upon assuming the appointed office or otherwise becoming an appointee; and

(2) to ensure compliance with this order within the agency.

(b) With respect to the Executive Office of the President, the duties set forth in section 4(a) shall be the responsibility of the Counsel to the President or such other official or officials to whom the President delegates those duties.

(c) The Director of the Office of Government Ethics shall:

(1) ensure that the pledge and a copy of this Executive Order are made available for use by agencies in fulfilling their duties under section 4(a);

(2) in consultation with the Attorney General or Counsel to the President, when appropriate, assist designated agency ethics officers in providing advice to current or former appointees regarding the application of the pledge; and

(3) adopt such rules or procedures (conforming as nearly as practicable to its generally applicable rules and procedures) as are necessary or appropriate:

(i) to carry out the foregoing responsibilities;

(ii) to apply the lobbyist gift ban set forth in paragraph 5 of the pledge to all executive branch employees;

(iii) to authorize limited exceptions to the lobbyist gift ban for circumstances that do not implicate the purposes of the ban;

(iv) to make clear that no person shall have violated the lobbyist gift ban if the person properly disposes of a gift as provided by section 2635.206 of title 5, Code of Federal Regulations;

(v) to ensure that existing rules and procedures for Government employees engaged in negotiations for future employment with private businesses that are affected by their official actions do not affect the integrity of the Government's programs and operations; and

(vi) to ensure, in consultation with the Director of the Office of Personnel Management, that the requirement set forth in paragraph 8 of the pledge is honored by every employee of the executive branch;

(d) An appointee who has signed the pledge is not required to sign the pledge again upon appointment or detail to a different office, except that a person who has ceased to be an appointee, due to termination of employment in the executive branch or otherwise, shall sign the pledge prior to thereafter assuming office as an appointee.

(e) All pledges signed by appointees, and all waiver certifications with respect thereto, shall be filed with the head of the appointee's agency for permanent retention in the appointee's official personnel folder or equivalent folder.

Sec. 5. Enforcement. (a) The contractual, fiduciary, and ethical commitments in the pledge provided for herein are solely enforceable by the United States by any legally available means, including any or all of the following: debarment proceedings within any affected executive agency or civil judicial proceedings for declaratory, injunctive, or monetary relief.

(b) Any former appointee who is determined, after notice and hearing, by the duly designated authority within any agency, to have violated his or her pledge may be barred from engaging in lobbying activities with respect to that agency for up to 5 years in addition to the 5-year time period covered by the pledge. The head of every executive agency shall, in consultation with the Director of the Office of Government Ethics, establish procedures to implement this subsection, which shall include (but not be limited to) providing for factfinding and investigation of possible violations of this order and for referrals to the Attorney General for his or her consideration pursuant to subsection (c).

(c) The Attorney General or his or her designee is authorized:

(1) upon receiving information regarding the possible breach of any commitment in a signed pledge, to request any appropriate Federal investigative authority to conduct such investigations as may be appropriate; and

(2) upon determining that there is a reasonable basis to believe that a breach of a commitment has occurred or will occur or continue, if not enjoined, to commence a civil action on behalf of the United States against the former officer or employee in any United States District Court with jurisdiction to consider the matter.

(d) In such civil action, the Attorney General or his or her designee is authorized to request any and all relief authorized by law, including but not limited to:

(1) such temporary restraining orders and preliminary and permanent injunctions as may be appropriate to restrain future, recurring, or continuing conduct by the former officer or employee in breach of the commitments in the pledge he or she signed; and

(2) establishment of a constructive trust for the benefit of the United States, requiring an accounting and payment to the United States Treasury of all money and other things of value received by, or payable to, the former officer or employee arising out of any breach or attempted breach of the pledge signed by the former officer or employee.

Sec. 6. General Provisions. (a) This order supersedes Executive Order 13490 of January 21, 2009 (Ethics Commitments by Executive Branch Personnel), and therefore Executive Order 13490 is hereby revoked. No other prior Executive Orders are repealed by this order. To the extent that this order is inconsistent with any provision of any prior Executive Order, this order shall control.

(b) If any provision of this order or the application of such provision is held to be invalid, the remainder of this order and other dissimilar applications of such provision shall not be affected.

(c) The pledge and this order are not intended to, and do not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party (other than by the United States) against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The definitions set forth in this order are solely applicable to the terms of this order, and are not otherwise intended to impair or affect existing law.

(e) Nothing in this order shall be construed to impair or otherwise affect:

(1) the authority granted by law to an executive department, agency, or the head thereof; or

(2) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(f) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

DONALD J. TRUMP

To: Minoli, Kevin[Minoli.Kevin@epa.gov]; Jackson, Ryan[jackson.ryan@epa.gov]
Cc: Schmidt, Lorie[Schmidt.Lorie@epa.gov]
From: Brown, Byron
Sent: Fri 3/10/2017 11:09:26 PM
Subject: RE: Input Needed on CPP-Related Filing Due Monday (Pruitt, Schnare, and Schwab recused)

I spoke to Ryan, and

Ex. 5 - Deliberative Process

From: Minoli, Kevin
Sent: Friday, March 10, 2017 1:34 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>; Brown, Byron <brown.byron@epa.gov>
Cc: Schmidt, Lorie <Schmidt.Lorie@epa.gov>
Subject: Input Needed on CPP-Related Filing Due Monday (Pruitt, Schnare, and Schwab recused)

Administrator Pruitt, David Schnare and Justin Schwab are all recused from this matter

Ex. 5 - Deliberative Process

Thank you, Kevin

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Kevin S. Minoli

Acting General Counsel

Office of General Counsel

US Environmental Protection Agency

Main Office Line: 202-564-8040

To: Dravis, Samantha[dravis.samantha@epa.gov]
From: Minoli, Kevin
Sent: Fri 3/31/2017 3:47:53 PM
Subject: RE: Possible press inquiries re: Supreme Court Clean Water Rule case

Hi Samantha- While it has been another big week, in some ways it feels like we are all starting to settle in and get our feet under us a bit. Hope you are feeling the same over in OP. Kevin

Kevin S. Minoli

Acting General Counsel

Office of General Counsel

US Environmental Protection Agency

Main Office Line: 202-564-8040

From: Dravis, Samantha
Sent: Friday, March 31, 2017 6:50 AM
To: Minoli, Kevin <Minoli.Kevin@epa.gov>
Subject: Re: Possible press inquiries re: Supreme Court Clean Water Rule case

Thank you Kevin. Hope you are hanging in there this week.

Sent from my iPhone

On Mar 31, 2017, at 12:02 AM, Minoli, Kevin <Minoli.Kevin@epa.gov> wrote:

Byron and Samantha- I know neither of you are technically responsible for water or press, but I wanted you to at least be aware of the below in case it comes up tomorrow. Thanks,
Kevin

Kevin S. Minoli
Acting General Counsel
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8040

Begin forwarded message:

From: "Minoli, Kevin" <Minoli.Kevin@epa.gov>
Date: March 31, 2017 at 12:01:15 AM EDT
To: "Konkus, John" <konkus.john@epa.gov>, "Grantham, Nancy" <Grantham.Nancy@epa.gov>, "Bowman, Liz" <Bowman.Liz@epa.gov>
Cc: "Shapiro, Mike" <Shapiro.Mike@epa.gov>, "david.fotouhi@gmail.com" <david.fotouhi@gmail.com>
Subject: Fwd: Possible press inquiries re: Supreme Court Clean Water Rule case

John, Nancy, and Liz- We wanted to provide a head's up and some background info regarding possible action by the Supreme Court tomorrow. The Administrator, Sarah, Justin, and anyone who worked in the Oklahoma AG's Office is recused, but Mike, David, and I are all happy to answer any questions you may have. Thanks, Kevin


Kevin S. Minoli
Acting General Counsel
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8040

Begin forwarded message:


From: "Wendelowski, Karyn" <wendelowski.karyn@epa.gov>
Date: March 30, 2017 at 2:46:45 PM EDT
To: "Minoli, Kevin" <Minoli.Kevin@epa.gov>, "Prabhu, Aditi" <Prabhu.Aditi@epa.gov>, "Neugeboren, Steven" <Neugeboren.Steven@epa.gov>, "Wehling, Carrie" <Wehling.Carrie@epa.gov>
Subject: Possible press inquiries re: Supreme Court Clean Water Rule case

Hi Kevin - As requested, brief background for press office in case there are inquiries.

(b) (5) (DPP), (b) (5) (AWP)



(b) (5) (DPP), (b) (5) (AWP)



Karyn Wendelowski

Attorney Advisor

Office of General Counsel

(202) 564-5493

To: Brown, Byron[brown.byron@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]
From: Minoli, Kevin
Sent: Fri 3/31/2017 4:02:45 AM
Subject: Fwd: Possible press inquiries re: Supreme Court Clean Water Rule case

Byron and Samantha- I know neither of you are technically responsible for water or press, but I wanted you to at least be aware of the below in case it comes up tomorrow. Thanks, Kevin

Kevin S. Minoli
Acting General Counsel
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8040

Begin forwarded message:

From: "Minoli, Kevin" <Minoli.Kevin@epa.gov>
Date: March 31, 2017 at 12:01:15 AM EDT
To: "Konkus, John" <konkus.john@epa.gov>, "Grantham, Nancy" <Grantham.Nancy@epa.gov>, "Bowman, Liz" <Bowman.Liz@epa.gov>
Cc: "Shapiro, Mike" <Shapiro.Mike@epa.gov>, "david.fotouhi@gmail.com" <david.fotouhi@gmail.com>
Subject: Fwd: Possible press inquiries re: Supreme Court Clean Water Rule case

John, Nancy, and Liz- We wanted to provide a head's up and some background info regarding possible action by the Supreme Court tomorrow. The Administrator, Sarah, Justin, and anyone who worked in the Oklahoma AG's Office is recused, but Mike, David, and I are all happy to answer any questions you may have. Thanks, Kevin


Kevin S. Minoli
Acting General Counsel
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8040

Begin forwarded message:

From: "Wendelowski, Karyn" <wendelowski.karyn@epa.gov>
Date: March 30, 2017 at 2:46:45 PM EDT
To: "Minoli, Kevin" <Minoli.Kevin@epa.gov>, "Prabhu, Aditi" <Prabhu.Aditi@epa.gov>, "Neugeboren, Steven" <Neugeboren.Steven@epa.gov>, "Wehling, Carrie" <Wehling.Carrie@epa.gov>
Subject: Possible press inquiries re: Supreme Court Clean Water Rule case

Hi Kevin - As requested, brief background for press office in case there are inquiries.

(b) (5) (DPP), (b) (5) (AWP)



Karyn Wendelowski
Attorney Advisor
Office of General Counsel
(202) 564-5493

To: Jackson, Ryan[jackson.ryan@epa.gov]
Cc: Brown, Byron[brown.byron@epa.gov]; Schmidt, Lorie[Schmidt.Lorie@epa.gov]
From: Minoli, Kevin
Sent: Fri 3/10/2017 11:22:40 PM
Subject: Re: Input Needed on CPP-Related Filing Due Monday (Pruitt, Schnare, and Schwab recused)

Great. Thanks guys. Have a great weekend. Kevin

Kevin S. Minoli
Acting General Counsel
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8040

On Mar 10, 2017, at 6:12 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:

Thank you.

From: Brown, Byron
Sent: Friday, March 10, 2017 6:09 PM
To: Minoli, Kevin <Minoli.Kevin@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Schmidt, Lorie <Schmidt.Lorie@epa.gov>
Subject: RE: Input Needed on CPP-Related Filing Due Monday (Pruitt, Schnare, and Schwab recused)

I spoke to Ryan, and Ex. 5 - Deliberative Process

From: Minoli, Kevin
Sent: Friday, March 10, 2017 1:34 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>; Brown, Byron <brown.byron@epa.gov>
Cc: Schmidt, Lorie <Schmidt.Lorie@epa.gov>
Subject: Input Needed on CPP-Related Filing Due Monday (Pruitt, Schnare, and Schwab recused)

Administrator Pruitt, David Schnare and Justin Schwab are all recused from this matter

Ex. 5 - Deliberative Process

Thank you, Kevin

Ex. 5 - Deliberative Process

Kevin S. Minoli

Acting General Counsel

Office of General Counsel

US Environmental Protection Agency

Main Office Line: 202-564-8040

To: Jackson, Ryan[jackson.ryan@epa.gov]; Brown, Byron[brown.byron@epa.gov]
Cc: Schmidt, Lorie (Schmidt.Lorie@epa.gov)[Schmidt.Lorie@epa.gov]
From: Minoli, Kevin
Sent: Fri 3/10/2017 6:33:36 PM
Subject: Input Needed on CPP-Related Filing Due Monday (Pruitt, Schnare, and Schwab recused)

Administrator Pruitt, David Schnare and Justin Schwab are all recused from this matter

Ex. 5 - Deliberative Process

Thank you, Kevin

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Kevin S. Minoli

Acting General Counsel

Office of General Counsel

US Environmental Protection Agency

Main Office Line: 202-564-8040

From: [Fugh, Justina](#)
To: [Siegal, Tod](#); [Siciliano, CarolAnn](#)
Subject: RE: revised recusal language
Date: Monday, May 01, 2017 4:23:00 PM

Okay and thanks!

From: Siegal, Tod
Sent: Monday, May 01, 2017 4:18 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>; Siciliano, CarolAnn <Siciliano.CarolAnn@epa.gov>
Subject: RE: revised recusal language

Thanks for the info, Justina. That's very helpful. And please disregard the comma.

Tod Siegal
U.S. EPA, Office of General Counsel
Cross-Cutting Issues Law Office
202-564-5552

From: Fugh, Justina
Sent: Monday, May 01, 2017 4:11 PM
To: Siegal, Tod <Siegal.Tod@epa.gov>; Siciliano, CarolAnn <Siciliano.CarolAnn@epa.gov>
Subject: RE: revised recusal language

Thanks, Tod. (b) (5) (DPP)

[Redacted]

[Redacted]

[Redacted]

[Redacted]

(b) (5) (DPP)

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Best,
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

Subject: RE: revised recusal language

, right?

Subject: revised recusal language

(b) (5) (DPP)

(b) (5) (DPP)

[Redacted text block containing 10 lines of information]

Okay with you?

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: [Fugh, Justina](#)
To: [Siciliano, CarolAnn](#); [Siegal, Tod](#)
Subject: revised recusal language
Date: Monday, May 01, 2017 2:04:00 PM
Attachments: [Recusal for Scott Pruitt 5-1-17](#) (b)

Hi,

Thanks SO MUCH for the quick response. I've corrected (b) (5) (DPP)

. I've attached the full document and set forth the revised paragraph for your easy reference, below:

[Redacted content]

Okay with you?

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: [Fugh, Justina](#)
To: [Minoli, Kevin](#)
Subject: FW: Wind River Litigation
Date: Thursday, March 09, 2017 12:20:00 PM

Hi Kevin,

I received this email and a call from Carol Ann Siciliano and understand that she also spoke to you. I am writing to say, earlier today, I spoke to Byron Brown (the author of the email below) directly. (b) (5) (DPP)

You and I are scheduled to meet with the Administrator on Monday, March 13 to finalize his recusal.

(b) (5) (DPP)

. Someone other than Mr. Pruitt should make the determination about the Wind River case without Mr. Pruitt's involvement and without consideration of his personal opinion.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Siciliano, CarolAnn
Sent: Thursday, March 09, 2017 9:44 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: FW: Wind River Litigation

Carol Ann Siciliano
Associate General Counsel
Cross-Cutting Issues Law Office
Office of General Counsel
U.S. Environmental Protection Agency

(202) 564-5489

siciliano.carolann@epa.gov

From: Brown, Byron

Sent: Wednesday, March 08, 2017 4:47 PM

To: Siciliano, CarolAnn <Siciliano.CarolAnn@epa.gov>

Cc: Nishida, Jane <Nishida.Jane@epa.gov>

Subject: Wind River Litigation

Carol Ann – Just wanted to close the loop on this. (b) (5) (DPP)

[REDACTED] [REDACTED] [REDACTED].

From: [Siciliano, CarolAnn](#)
To: [Fugh, Justina](#)
Subject: FW: Wind River Litigation
Date: Thursday, March 09, 2017 9:43:38 AM

Carol Ann Siciliano
Associate General Counsel
Cross-Cutting Issues Law Office
Office of General Counsel
U.S. Environmental Protection Agency
(202) 564-5489
siciliano.carolann@epa.gov

From: Brown, Byron
Sent: Wednesday, March 08, 2017 4:47 PM
To: Siciliano, CarolAnn <Siciliano.CarolAnn@epa.gov>
Cc: Nishida, Jane <Nishida.Jane@epa.gov>
Subject: Wind River Litigation

Carol Ann – Just wanted to close the loop on this. (b) (5) (DPP)

[REDACTED]

[REDACTED] [REDACTED] [REDACTED].

From: [Fugh, Justina](#)
To: [Minoli, Kevin](#)
Cc: [Trudeau, Shaun](#)
Subject: updated recusal statement (version for 5-1-17)
Date: Monday, May 01, 2017 2:16:00 PM
Attachments: [Recusal for Scott Pruitt 5-1-17 \(b\)](#).

Thanks. I've been in touch with Carol Ann and have revised the recusal statement. (b) (5)

(DPP)

See revised document (attached)

Have heard from GLO and CCILO about the recusal statement, and will talk to DOJ today.

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Minoli, Kevin
Sent: Thursday, April 27, 2017 4:43 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Emailing - Wind River Letter from Kevin Minoli 4.12.17.pdf

Here it is. Kevin

From: [Fugh, Justina](#)
To: [Siegal, Tod](#); [Siciliano, CarolAnn](#)
Subject: RE: revised recusal language
Date: Monday, May 01, 2017 4:10:00 PM

Thanks, Tod. (b) (5) (DPP)

[Redacted]

[Redacted]

[Redacted]

[Redacted]

The text now reads, (b) (5) (DPP)

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Best,
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Siegal, Tod
Sent: Monday, May 01, 2017 3:46 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>; Siciliano, CarolAnn <Siciliano.CarolAnn@epa.gov>
Subject: RE: revised recusal language

Hi Justina. The write-up looks good to us. One minor non-substantive suggested edit is shown below in red for your consideration.

(b) (5) (DPP)

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Thanks!

Tod Siegal
U.S. EPA, Office of General Counsel

Cross-Cutting Issues Law Office
202-564-5552

From: Fugh, Justina

Sent: Monday, May 01, 2017 2:05 PM

To: Siciliano, CarolAnn <Siciliano.CarolAnn@epa.gov>; Siegal, Tod <Siegal.Tod@epa.gov>

Subject: revised recusal language

Hi,

Thanks SO MUCH for the quick response. I've corrected (b) (5) (DPP)

I've attached the full document and set forth the revised paragraph for your easy reference, below:

(b) (5) (DPP)

[Redacted text block containing approximately 20 lines of text]

Okay with you?

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Siciliano, CarolAnn
Sent: Thursday, March 09, 2017 6:46 PM
To: Minoli, Kevin; Thomas, Deb; Nishida, Jane; Dunham, Sarah; Shaw, Betsy; Logan, Paul; Matsumoto, Kimi; Guadagno, Tony; Siegal, Tod; Wright, Felicia
Subject: Wind River: 11:30 am Friday meeting with Mike Flynn
Attachments: EPA Briefing Rehearing Request 3.9.17 (b) Region 8 bullets 3.9.17 (b)

At 11:30 am Friday Eastern time, the Wind River team is scheduled to brief Mike Flynn regarding the Wind River TAS rehearing question. We hope to receive a decision from Mike at or shortly after the meeting, in order to meet DOJ's COB Friday deadline.

Although the invitation was sent only to the principals (and me), I have confirmed that others would be welcomed too, either in the room or on the phone. (Mike's office can accommodate 6-7 people.)

I delivered two documents to Mike's assistant, which she inserted into his evening notebook. One is from OGC. The other is from Region 8. The OGC document is an update of the paper CCiLO used to brief Kevin on March 3. I stated that the Tribes do indeed plan to seek rehearing and that they are sending letters to EPA, DOJ and Interior asking us to do the same. (b) (5) (DPP), (b) (5) (AWP), (b) (5) (ACP)

I will inform DOJ tomorrow that we intend to give them a decision by COB Friday, but that any supporting letter won't arrive until early next week. Prior to 11:30 am, I also hope to gather information from Interior regarding the status of their deliberations.

Thank you, Kimi, Felicia and Tod for your last-minute assistance.

Carol Ann Siciliano
Associate General Counsel
Cross-Cutting Issues Law Office
Office of General Counsel
U.S. Environmental Protection Agency
(202) 564-5489
siciliano.carolann@epa.gov



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

MAY - 4 2017

THE ADMINISTRATOR

MEMORANDUM

SUBJECT: My Ethics Obligations

FROM: E. Scott Pruitt
Administrator

TO: Acting Assistant Administrators
Acting General Counsel
Inspector General
Acting Regional Administrators

This memorandum provides you with written notification regarding my ethics obligations. I have conferred with the Office of General Counsel's Ethics Office (OGC/Ethics) and understand that I must recuse myself from matters in which I have a financial interest, or a personal or business relationship. I also understand that I have certain obligations to my state bar and also under the President's Ethics Pledge that I have signed. This recusal statement addresses all of my ethics obligations.

Obligations Under the President's Ethics Pledge

I understand that I have ethics obligations with respect to my former employer and my former client, the State of Oklahoma. The President's Ethics Pledge provides more restrictions than the federal ethics rules, but I am advised by OGC/Ethics that the additional restrictions contained in the pledge that regard former employer and former client do not apply to me. The Executive Order defines "former employer" to exclude state government,¹ and the Office of Government Ethics has determined that this same exclusion applies to the definition of "former client."² Therefore, OGC/Ethics has confirmed that I am not subject to the additional pledge restrictions regarding former employers or former clients.

Ethics Obligations Under the Impartiality Provisions

Pursuant to federal ethics rules, I understand that I have a one-year cooling off period with my former employer and former client. I also understand that I have a "covered relationship" with certain

¹ See Exec. Order 13,770, Section 2(j), which provides that "'former employer' does not include ... State government."

² See Office of Government Ethics Legal Advisory 17-02 (February 6, 2017), which states that, "[w]ith respect to Executive Order 13770, ethics officials and employees may continue to rely on OGE's prior guidance regarding Executive Order 13490 to the extent that such guidance addresses language common to both orders," and Office of Government Ethics Legal Advisory DO-09-011 (March 26, 2009), which states that "based on discussions with the White House Counsel's office, OGE has determined that the definition of former client is intended to exclude the same governmental entities as those excluded from the definition of former employer."

organizations in which I was active during the past year. For one year after my resignation as Attorney General, and one year from my resignation from the entities specified below, I will not participate personally and substantially in any particular matter involving specific parties in which any of the following entities is a party or represents a party, unless I am first authorized by OGC/Ethics to participate, pursuant to 5 C.F.R. § 2635.502(d). This federal ethics limitation does not extend to particular matters of general applicability, such as rulemaking.

Name of Entity	Date when recusal from specific party matters ends under Federal Ethics Obligations
State of Oklahoma	February 18, 2018
Southern Baptist Theological Seminary	February 18, 2018
Windows Ministry Incorporated	February 18, 2018
Rule of Law Defense Fund	December 9, 2017

Commitment to My Ethical Responsibilities

To demonstrate my profound commitment to carrying out my ethical responsibilities, while I am the Administrator of the United States Environmental Protection Agency, I will not participate in any active cases in which Oklahoma is a party, petitioner or intervenor, including the following:

Case Name	Citation
American Petroleum Institute, et al. v. EPA	No. 13-1108 (D.C. Cir.)
Florida et al. v. EPA	No. 15-1267 (D.C. Cir.)
Murray Energy, et al. v. EPA	No. 15-3751 (6 th Cir.)
Murray Energy, et al. v. EPA	No. 15-1385 (D.C. Cir.) (consolidated with 15-1392, 15-1490, 15-1491 & 15-1494)
Murray Energy Corp. v. EPA	No. 16-1127 (D.C. Cir.)
Oklahoma ex rel. Pruitt v. EPA	No. 15-cv-00381 (10 th Cir.)
National Association of Manufacturers, <i>petitioner</i> , v. U.S. Department of Defense, <i>respondent</i> ³	No. 16-299 (S. Ct.)
Oklahoma ex rel. Pruitt v. EPA appeal pending <i>sub nom</i> , State of Oklahoma ex rel. Hunter, No. 16-5039 (10 th Cir.)	No. 4:15-cv-381 (N.D. Okla.)
<i>In Re</i> Volkswagen "Clean Diesel" Marketing, Sales, Practices, And Products Liability Litigation (extends to criminal case too)	No. 2672 MDL CRB (JSC) (N.D. Cal.) Criminal case: E.D. Michigan
State of North Dakota v. EPA	No. 15-1381 (D.C. Cir.) (joined with No. 15-1399, then consolidated with No. 15-1381)
State of West Virginia, et al. v. EPA	No. 15-1363 (D.C. Cir.)
Walter Coke Inc. v. EPA	No. 15-1166 (D.C. Cir.)
Wildearth Guardians v. EPA	No. 13-cv-02748 (D.C. Colo.)

³ EPA Ethics updated this chart on 5-17-17 to include this case, which was inadvertently omitted. It had erroneously included with the amicus filings on page 3. EPA Ethics notes that the Administrator has not and will not participate in this case.

I understand that this commitment is longer than is required by the federal impartiality standards, but I am taking this action to avoid even the appearance of any impropriety under federal ethics or professional responsibility obligations.

With respect to cases involving EPA in which Oklahoma joined other states in filing an amicus brief, I understand that Oklahoma was not a party to the litigation itself. I have informed the Designated Agency Ethics Official (DAEO) that Oklahoma itself neither authored the amici briefs nor otherwise participated in the litigation in any way. Most of those cases are resolved, except for *Building Industry Association of the Bay Area, et al. v. Department of Commerce, et al.* (the U.S. Supreme Court denied certiorari); *Sierra Club et al., plaintiffs-appellees v. Regina McCarthy in her capacity as Administrator of the United States Environmental Protection Agency, defendants-appellees; State of Arizona et al., intervenor-plaintiff-appellants*, No. 15-15894 (9th Cir.), on appeal from N.D. Cal., No. 13-cv-03953-SI (this case is fully argued and briefed is awaiting decision only); and *Wyoming v. EPA*, Nos. 14-9512 and 14-9514 (10th Cir.) (the standard of review argument advanced in the amicus brief that Oklahoma joined was uncontested on review).

Thus far, I have not participated in any of the cases listed in this recusal statement officially at all and will continue to recuse for now. In the event that I wish to participate, I will seek an ethics determination from the DAEO, who will apply the federal impartiality standard set forth at 5 C.F.R. § 2635.502. I understand that my professional responsibility obligations may impose consent requirements in order to participate. I will provide notification of such consent, if sought and obtained, to EPA's ethics officials.

Screening Arrangement

In order to help ensure that I do not participate in matters relating to any of the entities listed above, I have taken or will take the following steps:

1. I am instructing Ryan Jackson, Chief of Staff to screen all EPA matters, including existing litigation, directed to my attention that involve outside entities or that require my participation, to determine if they involve any of the entities or organizations listed above.
2. Until such time as a Presidentially Appointed Senate confirmed appointee is confirmed and sworn into a position such as the Deputy Administrator, General Counsel or Assistant Administrator, I am designating the Chief of Staff to take appropriate action or refer it with the Agency for appropriate action or assignment, without my knowledge or involvement.
3. I will provide the Chief of Staff and Sarah Greenwalt, Senior Advisor to the Administrator, with a copy of this memorandum so that they may fully understand the purpose and scope of my

recusal obligations and this screening arrangement. In order to help ensure that I do not inadvertently participate in matters from which I am recused, I am directing the Chief of Staff and/or Ms. Greenwalt to seek the assistance of OGC/Ethics if they are ever uncertain whether or not I may participate in a matter.

4. I will provide a copy of this memorandum to my principal subordinates. I will also instruct my principal subordinates that all inquiries and comments involving any of the entities listed above should be directed to the Chief of Staff without my knowledge or involvement.
5. In consultation with OGC/Ethics, I will revise and update my ethics agreement and/or this memorandum whenever is warranted by changed circumstances, including changes in my financial interests, my personal or business relationships, or the nature of my official duties.
6. In the event of any changes to this screening arrangement, I will provide a copy of the revised screening arrangement memorandum to the Chief of Staff, OGC/Ethics, and any principal subordinates.

cc: Ryan Jackson, Chief of Staff
Sarah Greenwalt, Senior Advisor to the Administrator
Kevin S. Minoli, Designated Agency Ethics Official
Justina Fugh, Alternate Designated Agency Ethics Official

<i>West Virginia v. EPA</i> (D.C. Cir., filed Oct. 2015), Lead case no. 15-1363
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Mandy Gunasekara

Kevin Minoli

Erik Baptist

Lorie Schmidt

Elliot Zenick

Scott Jordan

Peter Tsirigotis

Kevin Culligan

Fred Thompson

Janet Eck

David Fatouhi

In re: DOD & EPA Final Rule: Clean Water Rule (6th Cir., filed July 20, 2015), Lead case no. 15-3751

Kevin Minoli

Karyn Wedelowski

Elise Packard

Aditi Prbhu

Carrie Wehling

Mike Shapiro

Benita Best-Wong

John Goodin

Mindy Eisenberg

Gregory Peck

Rose Kwok

Donna Downing

Damaris Christensen

Carrie Wehling

Steven Neugenboren

Shaun Trudeau

Richard Albores

<i>National Ass'n of Manufacturers v. DOD, et. Al.</i> (S. Ct. cert granted Jan. 13, 2017), Lead case no. 16-299
Karyn Wendelowski
John Goodin
Mindy Eisenberg
Deborah Nagle
Mark Pollins
Joseph Theis
Steven Neugeboren
Carrie Wehling
Donna Downing
Erin Flattery-Keith
Andrew Cherry
Byron Brown
Jessica Zomer
Richard Witt
Mary Ellen Levine
Simma Kupchan
Kevin Minoli
Derek Mills
Aditi Prabhu
Shaun Trudeau

<i>State of West Virginia, et al. v. EPA, et al.</i> (D.C. Cir., filed July 2016), Lead case no. 15-1381
Mandy Gunasekara
Kevin Minoli
Erik Baptist
Lorie Schmidt
Elliot Zenick
Scott Jordan
Peter Tsirigotis
Kevin Culligan
Fred Thompson
Janet Eck
David Fatouhi

<i>State of North Dakota v. EPA</i> (D.C. Cir., filed Nov. 2015), Lead case no. 15-1381
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Mandy Gunasekara

Kevin Minoli

Erik Baptist

Lorie Schmidt

Elliot Zenick

Scott Jordan

Peter Tsirigotis

Kevin Culligan

Fred Thompson

Janet Eck

David Fatouhi

***American Petroleum Institute, et al. v. EPA* (D.C. Cir., filed Aug. 2016),
Lead case no. 13-1108**

Amy Branning

Guatam Srinivasan

Elliot Zenick

David Fotouhi

Brian Doster

Kevin Minoli

Lorie Schmidt

Scott Jordan

Derek Mills

Mandy Gunasekara

State of Oklahoma ex rel. E. Scott Pruitt v. EPA, et al. (N.D. OK, filed July 2015), on appeal *sub nom.* ***State of Oklahoma ex rel. Mike Hunter v. EPA, et al.*** (10th Cir.), Lead case no. 16-5038

Karyn Wendelowski

Carrie Wehling

Steven Neugenboren

Simma Kupchan

<i>Murray Energy Corp. v. EPA</i> (D.C. Cir., filed June 2016), Lead case no. 16-1127
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Karen Bianco

Paul Versace

Kaytrue Ting

Sonja Rodman

Gutam Srinivasan

Lorie Schmidt

David Fotouhi

Mandy Gunasekara

<i>Murray Energy Corp. v. EPA</i> (D.C. Cir., filed Oct. 2015), Lead case no. 15-1385
Melina Williams
David Orlin
Steve Silverman
Scott Jenkins
Pat Dolwick
Guatam Srinivasan
Susan Stone
Elizabeth Palma
Ben Garwood
Raj Rao
Dan Deroeck
Kristi Smith
Josh Lewish
Mandy Gunasekara
Steve Page
Mike Koerber
Erika Sasser
Karen Wesson
Anna Wood
Lorie Schmidt
Lala Alston
Valerie Washington
Brian Doster
David Fatouhi
Deirdre Murphy
Emily Seidman

***Walter Coke Inc. v. EPA* (D.C. Cir. filed Aug. 2015), Lead case no. 15-1166**

Sarah Dunham

Steve Page

Anna Wood

Michael Ling

Juan Santiago

Megan Brachtl

Lisa Sutton

Patrick Lessard

Elizabeth Selbst

Sam Coleman

Wren Stenger

Guy Donaldson

Alan Shar

James Payne

Rick Bartley

Kevin Minoli

David Fotouhi

Mandy Gunasekara

Aditi Prabhu

Lorie Schmidt

Guatam Srinivasan

Kristi Smith

Shelia Igoe

Zachary Pilchan

Jan Tierney

Paul Bangser

Geoff Wilcox

<i>State of Wyoming v. EPA, et al.</i> (10th Cir., filed Jan. 2015), Lead case no. 14-9512
Kevin Minoli
Mike Flynn
Byron Brown
Jane Nishida
Sarah Dunham
Deb Thomas
Carol Ann Siciliano
Karin Koslow
Tony Guadagno
Tod Siegal
Felicia Wright
Andrew Baca
Pat Childers
Laura McKelvey
Lorie Schmidt
Michael Lee
Rick Vetter
K.C. Schefski
Paul Logan
Kimi Matsumoto
Randy Hill
Betsy Shaw
Steve Page
Anna Wood
Mike Koerber
Juan Santiago
Gautam Srinivansan
Tricia Jefferson
Rich Albores
Elyana Sutin
Suzanne Bohan
Martin Hestmark
Carl Daly
Patrick Rogers
Callie Videtich
Monica Morales
Erin Perkins
Katherin Hall
Tina Artemis
Andrew Mutter
Mai Denawa
Brian Joffee

<i>Public Service Company of Oklahoma, d.b.a. AEP v. EPA</i> (D.C. Cir., filed Feb. 2012), Lead case no. 12-1023

Kevin Minoli

Justin Schwab

Lorie Schmidt

Kristie Smith

Stephanie Hogan
